Anti-money laundering and counter-terrorist financing measures

Mexico

Mutual Evaluation Report

January 2018

The Financial Action Task Force (FATF) is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. The FATF Recommendations are recognised as the global anti-money laundering (AML) and counter-terrorist financing (CTF) standard.

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The Financial Action Task Force of Latin America (GAFILAT) is a regionally based inter-governmental organization that gathers 17 countries from South America, Central America and North America in order to combat money laundering and terrorist financing by means of a commitment for continuous improvement of the national policies against both scourges, and the enhancement of different cooperation mechanisms among its member countries.

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Executive Summary

1. This report provides a summary of the AML/CFT measures in place in Mexico as at the date of the on-site visit (28 February to 16 March 2017). It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Mexico's AML/CFT system, and provides recommendations on how the system could be strengthened.

Key Findings

- Mexico has a mature AML/CFT regime, with a correspondingly well-developed legal and institutional framework. There has been a significant improvement in some areas of the country's AML/CFT regime compared to that which existed when the country was last assessed in 2008. It is nonetheless confronted with a significant risk of money laundering (ML) stemming principally from activities most often associated with organised crime, such as drug trafficking, extortion, corruption and tax evasion.
- Most of the key authorities have a good understanding of ML and terrorist financing (TF) risks, and there is generally good policy cooperation and coordination. Mexico finalized its national risk assessment (NRA) in June 2016 and has since taken some high-level actions to mitigate the risks identified in the NRA. These actions—although leading to some concrete results—have not been sufficiently comprehensive nor prioritized to have resulted in an appropriate allocation of resources at the federal, state, and community levels. A national strategy is being developed based on the NRA findings. The success of these measures will depend on their proper implementation.
- The financial sector demonstrates a good understanding of the primary ML threats from organised crime groups and associated criminal activities as well as tax crimes, but the recognition of corruption as a main threat is uneven. While recognizing the general threat of organised crimes facing Mexico, designated non-financial businesses and professions' (DNFBPs) appreciation of the ML risks appears limited. Financial institutions' (FIs) and DNFBPs' understanding of more complex ML techniques, such as the misuse of legal persons, is limited.
- Financial intelligence and other relevant information are made available by the financial intelligence unit (FIU) and accessed on a regular basis by competent authorities. Although the FIU functions well and is producing good financial intelligence, the volume of financial intelligence disseminated to the Procuraduría General de la República (PGR) is limited in number resulting in a low number of financial investigations.
- Until relatively recently, the PGR did not rank the identification and investigation of ML as one of

its key priorities. ML is not investigated and prosecuted in a proactive and systematic fashion, but rather on a reactive, case-by-case basis, notwithstanding the fact that some high-profile investigations have recently been conducted. In view of the serious threats posed by the main predicate offences (e.g., organised crime or drug trafficking), the competent authorities seem to accord far more priority to the investigation of such offenses than to ML. Consequently, the number of prosecutions and convictions for ML are very low. Significant shortcomings were found in the way in which ML cases are investigated. Specifically, only very rarely are parallel financial investigations conducted and ML is seldom prosecuted as standalone offence. The level of corruption affecting law enforcement agencies (LEAs), in particular at the state level, undermines their capacity to investigate and prosecute serious offences.

- Confiscation of proceeds and instrumentalities is not systematically pursued as a policy objective, and not commensurate with the ML/TF risks. The provisional measures available to the authorities are not being used properly and in timely manner, except for the use of FIU's blocked persons' list (BPL). Suspicious and falsely declared cash is not being adequately confiscated.
- Overall, Mexico has a solid institutional and legal framework in place to investigate and prosecute TF and impose targeted financial sanctions (TFS). The authorities have provided FIs with red flags to detect potential TF cases, and the FIU has conducted some analysis related to TF. Nonetheless, Mexico could do more to ensure that the relevant authorities are better equipped with the right tools in terms of training, expertise, and priority setting to be able to effectively detect and disrupt TF.
- A serious concern across all sectors is that beneficial owners are being identified only to a limited extent, systematically weighing on entities' effectiveness in assessing and managing ML/TF risks. Owing largely to shortcomings in the legal framework, FIs seek to identify beneficial owners in only limited circumstances (the authorities have promulgated amendments to regulations which they claim will address this gap but these were not in effect at the time of the on-site visit). Where FIs are required to identify beneficial owners (legal persons categorized as high risk and natural persons), FIs unduly rely on customers' self-declaration to identify beneficial owners. For the majority of legal persons that are not categorized as high risk, FIs need only obtain information on corporate customers' first layer of legal ownership without seeking to reach the natural persons who ultimately own or control the entity. DNFBPs generally believe it is not their role to identify beneficial owners.
- The financial sector supervisors have a good understanding of the risks within the sectors for which they are responsible, and have implemented reasonable risk-based approaches to AML/CFT supervision. Oversight of the DNFBPs is less developed and is significantly under-resourced. Generally, sanctions have not been applied, to date, in an effective, proportionate and dissuasive manner.
- Mexico has a solid legal and institutional framework in place to seek and provide mutual legal assistance (MLA) and extradition. The authorities also frequently rely on other forms of international cooperation to exchange information with other countries. In practice, Mexico has decided as a policy matter to strengthen and favour other forms of cooperation while only pursuing MLA when strictly necessary. It is clear that the use of other forms of cooperation is effective, fluid, and has produced tangible results with the U.S. The provision of MLA by Mexico is somewhat limited by the absence of a legal basis for certain investigation techniques. As regards

seeking MLA, the authorities are neither proactive nor seem to accord a high priority to pursuing MLA when the offense has a transnational element, and where evidence or assets are located abroad which has a negative impact on the effectiveness of investigations and prosecutions.

Risks and General Situation

2. Based on the information provided in the NRA and other open source documents, the amount of proceeds generated by predicate crimes committed in and outside of Mexico is high. The main domestic proceeds-generating crimes can be divided into three tiers of magnitude: (i) domestic organised crimes, including drugs and human trafficking, (ii) corruption, and (iii) tax evasion. The country also faces particular risks related to the laundering of proceeds derived from foreign predicate crimes mostly related to Mexican transnational organised crime (e.g., in the U.S., and to a much lower degree South and Central America).

3. Banks are most at threat, but other sectors are vulnerable to ML activities. Banks dominate the financial sector, handle a high volume of transactions, and are well interconnected to the international financial system. Brokerage firms and DNFBPs notably notaries and real estate agents are involved in a high volume of transactions and are exposed to ML threats.

4. Typical ML methods include the use of shell and front companies to conceal beneficial ownership (BO), the purchase and sale of real estate and high-value goods, and cash smuggling on both directions of the U.S.–Mexico Border. The high use of cash and relatively large informal economy significantly increases the risk that illicit proceeds may be re-channeled into the regulated formal economy. Nevertheless, according to the Bank of Mexico's analysis, the restrictions on FIs for receiving cash in U.S. dollars (USD) has resulted in a significant decrease in the volume of USD cash-in and cash-out of the financial system. However, use of Mexican pesos (MXN) as cash has increased.

5. The risk of TF appears to be relatively low, although some cases have been detected. The authorities and the private sector agree that the overall TF risk is low.

Overall Level of Effectiveness and Technical Compliance

6. Mexico's AML/CFT regime has significantly improved since it was last assessed in 2008. It is nonetheless confronted with a significant risk of ML stemming principally from activities most often associated with organised crime, such as drug trafficking and extortion, as well as corruption and tax evasion.

7. Mexico has a strong legal and institutional framework for combating ML/TF and proliferation financing (PF). The legal and institutional framework is particularly strong regarding criminalization of ML and TF, financial intelligence, but less so regarding key preventive measures including identification of beneficial owners and suspicious transaction reporting, regulation and supervision of DNFBPs, and entity transparency.

8. In terms of effectiveness, Mexico achieves substantial results in understanding and combating risks, TFS, and international cooperation. More significant improvements are needed in other areas, notably the investigation and prosecution of ML, and confiscation

Assessment of Risks, coordination and policy setting (Chapter 2 - IO.1; R.1, R.2, R.33

9. The authorities' understanding of ML and TF risk is relatively good. The NRA was concluded in June 2016 with the involvement of all competent authorities and the private sector. It was developed with the technical assistance of the Inter-American Development Bank and followed the guidance provided by the FATF and other multilateral bodies. This first exercise provides a reasonable basis for updating the country's AML/CFT strategy and developing the next risk assessment. The NRA considers qualitative and quantitative data from LEAs and also civil, military, and navy intelligence, and supervisory information. The NRA also includes a sectorial risk assessment analysis and the analysis of the responses to the risk perception questionnaire that the FIU sent to the reporting entities. Overall the analysis and understanding of risks appears to rely more on FIU information than on law enforcement information. Although the NRA acknowledges that using front companies is one of the most widespread ML techniques in Mexico, it did not properly reflect the magnitude of the vulnerability owing to the absence of readily available and accurate BO information, nor did it provide an assessment of the risks posed by each type of legal person. Independently from the NRA, the FIU, LEAs, and *Servicio de Administración Tributaria* (SAT) have conducted analysis of companies that have a higher risk of being misused for ML/tax evasion (in case of SAT) transactions, and thus have a better understanding of those risks.

10. Mexico is developing a national strategy based on the NRA findings. Two high-level groups of officials were created in November 2016 for developing AML/CFT policy and actions in a more coordinated and dynamic way. In this context, the Mexican government has already taken several high-level actions to mitigate some risks noted in the NRA. It has issued new AML/CFT regulations, improved coordination between agencies, and given feedback to financial institutions and DNFBPs concerning the NRA results. However, these actions—although leading to some concrete results—have not been sufficiently comprehensive nor prioritized to have resulted in an appropriate allocation of resources at the federal, state, and community levels. Implementation in some areas remains a concern due to the lack of capacity (e.g., SAT) and the high turn-over of senior officials in critical agencies of the public administration.

11. There is generally good coordination on ML issues between the FIU, PGR, and the supervisors, but less so between LEAs and PGR. Coordination on TF issues is less developed. The lack of inter-agency cooperation on ML, in particular between the PGR and LEAs at the federal and state levels, impedes Mexico's ability to effectively tackle ML cases.

12. There are no sectors exempted from the AML/CFT requirements, and the authorities have even added some vulnerable activities (VA) that go beyond the standard (e.g., car dealers).

13. The financial sector was closely involved in the development of the NRA and informed of its results; DNFBP involvement was more limited even though they were encouraged to engage. There has been an extensive outreach by the FIU and supervisors to communicate the results of the NRA to all reporting entities.

Financial Intelligence, Money Laundering and Confiscation (Chapter 3 - IOs 6-8; R.3, R.4, R.29-32)

14. Competent authorities at the federal, state, and local levels regularly receive and access a wide range of financial intelligence provided or maintained by the FIU. However, financial intelligence is not regularly used to support ML/TF investigations and trace assets. The FIU functions

well and produces good operational and high quality strategic analyses that serve the PGR in launching ML and associated predicate crimes investigations. The FIU has the resources and skills to collect and use a wide variety of intelligence and other relevant information to develop analysis and produce good intelligence. Several competent authorities have direct access to the FIU database which enhances their ability to use financial intelligence in a timely manner, in line with their own operational needs, without having to wait for disseminations from the FIU.

15. However financial intelligence does not often lead to launching ML investigations. The FIU's spontaneous disseminations to the PGR related to ML and underlying offences are generally low. Several other elements affect the launch of ML investigations and the identification and tracking of assets by the PGR notably: (i) the lack of reporting by DNFBPs, delays in the FIU's disseminations, and deficiencies related to the cash couriers' regime; and (ii) the lack of BO information, at the federal and state levels, that impairs the FIU's capacity to identify specific targets and assets, and (iii) the lack of skills of the PGR and LEAs.

16. Mexico has created an institutional and legal framework to investigate ML and predicate offences. However, in view of the serious threat posed by the main predicate offences, the competent authorities accord far more priority to the investigation of predicate offenses and scant attention is paid to ML. Two specialised units have been established within the PGR to undertake ML investigations at the federal level, but do not have an equivalent at the state level. In addition, at the federal level, other units are not precluded from conducting investigations into ML deriving from predicate offences. The multiplicity of units responsible for the investigation of ML gives rise to difficulties in terms of coordination, and in ensuring proper sharing of evidence and information. In light of the extremely low results achieved in terms of number of investigations initiated, prosecutions brought, and convictions secured, the financial and human resources (including specialised training) allocated to these units do not appear to be sufficient. The significant levels of corruption affecting LEAs, in particular at the state level, undermines their capacity to investigate and prosecute serious offences.

17. The low conviction rate also points to a low degree of effectiveness in the way in which investigations are initiated (e.g., investigations opened without sufficient reasonable grounds) and conducted (e.g., deficiencies in investigation methodology or in the financial investigation, overly long procedures, and lack of internal coordination at the federal and state level). Finally, very rarely is a parallel ML investigation conducted when the competent unit initiates an investigation into the main predicate offenses.

18. Proceeds and instrumentalities of crime are rarely confiscated, and are not pursued as a policy objective. The FIU has endeavoured to improve the timeliness of the application of provisional measures on the proceeds and instrumentalities that are subject to confiscation through the BPL system. Technical deficiencies in the cross-border declaration system impair the ability to effectively target and confiscate falsely declared cross-border movements of currency. The number of confiscations is very low given Mexico's risk profile.

Terrorist Financing and Financing Proliferation (Chapter 4 - IOs 9- 11; R.5-8)

19. The Mexican authorities and the private sector demonstrated an understanding of TF risks, which they classify as "low-medium." Their main focus, as far as TF risks are concerned, is on suspicious transaction reports (STRs) provided by FIs involving high-risk jurisdictions.

20. Mexico has an institutional framework in place to investigate and prosecute TF, with an ad hoc unit, the Specialised Unit on Terrorism, Arms Stockpiling, and Trafficking (UEITA). However, this unit does not have protocols or manuals containing guidelines for the clear identification and prioritization of potential TF cases. Furthermore, it appears that the investigations conducted by the UEITA are investigations based on intelligence gathered by the FIU or the civil intelligence agency and never proceed to the next level, which is the initiation of a criminal investigation.

21. The absence of TF cases results in a lack of experience within the body responsible for the prosecution of TF which makes it difficult to conclude the system is effective. The consequence of the foregoing is that the UEITA has diminished capacity to identify potential TF cases and conduct investigations into these cases using the investigation techniques available under criminal procedure law. Finally, TF is not one of the offenses for which legal persons may be held criminally liable under Mexican law.

22. Mexico has a solid legal and regulatory framework for implementing TFS related to TF and PF. FIs and DNFBPs were able to demonstrate an understanding of their freezing and reporting obligations, and the system in place to detect, freeze, and report assets related to ML (which is the same system as that used for compliance with TFS) appears to be effective, though no positive matches for TF or PF have ever been identified. Weak supervision of DNFBPs raise some concerns over whether there is adequate compliance in the non-financial sector, and deficiencies related to BO may impact the ability of reporting entities to detect potential sanctions evasion. Mexico has yet to put in place a risk-based system for targeted monitoring of its non-profit organization (NPO) sector, though authorities have taken the initial step of conducting a revised risk assessment and are reviewing NPO regulations to revise accordingly.

Preventive Measures (Chapter 5 - IO4; R.9-23)

23. The financial sector, especially the core FIs, demonstrates a good understanding of the primary ML threats from organised crime groups and associated criminal activities although the recognition of corruption as a main threat is uneven. In contrast, while recognizing the general threat of organised crimes facing Mexico, DNFBPs did not demonstrate adequate appreciation of the ML risks. Both FIs and DNFBPs have limited understanding of more complex ML techniques, such as the misuse of legal persons. Their understanding of TF risks is also less developed.

24. FIs and most DNFBPs generally understand their AML/CFT obligations including customer due diligence (CDD), record keeping, and reporting. The quality of basic CDD measures and record keeping of FIs appears good in general, but is negatively impacted by some technical deficiencies. However, discussions suggested that lawyers and accountants have a lower level of awareness of their AML/CFT obligations.

25. All sectors appear to be identifying their customers, but owing largely to shortcomings in the legal framework, [1] beneficial owners are being identified only to a limited extent, systematically weighing on entities' effectiveness in assessing and managing ML/TF risks. FIs seek to identify beneficial owners in only limited circumstances. Where FIs are required to identify beneficial owners (of legal persons categorized as high risk and natural persons), FIs unduly rely on customers'

[1] The authorities have promulgated amendments to regulations which they claim will address this gap for FIs but these were not in effect at the time of the on-site visit.

self-declaration for this purpose. For the majority of legal persons that are not categorized as high risk, FIs only obtain information on corporate customers' first layer legal ownership without seeking to reach the natural persons who ultimately own or control the entity. DNFBPs generally believe it is not their role to identify beneficial owners.

26. The methodologies for risk categorization of customers applied by core FIs are not robust enough to reasonably reflect customer risk profiles as evidenced in that FIs only rate a very small portion of domestic politically exposed persons (PEPs) as high risk. DNFBPs are not subject to requirements to identify (foreign or domestic) PEPs. As a result, the risks posed by domestic PEPs are being managed only to a limited extent.

27. While quality of STRs has generally improved over the past few years, concerns remain regarding the substance of reports, timeliness of submissions, and low level of reporting by DNFBPs. The basis of reporting obligations of FIs is somewhat blurred between suspicious and unusual, which may have contributed to cross-sector concerns about the inadequacy of analysis. Unusual transaction reports (UTR)/STR reporting by large FIs is not always as prompt as it should be. Reporting by DNFBPs is generally poor in both quantitative and qualitative terms, a particular concern being that professionals (lawyers and accountants) have not filed a single STR in the past three years.

Supervision (Chapter 6 - IO3; R.26-28, R. 34-.35)

28. The financial sector supervisors have a good understanding of the risks within the sectors for which they are responsible and have developed sound models that allow them to differentiate the risks between individual institutions. The situation is far less clear with respect to the DNFBPs, where the basis for the SAT's appreciation of risk is not fully developed. The sheer number of entities for which the SAT is responsible poses a material challenge to understanding risk at the level of individual businesses.

29. The financial sector supervisors have all adopted risk-based approaches to framing their annual program of on-site inspections. There is good evidence that the inspectors are increasingly identifying key areas of risk and are engaging with the institutions on those aspects. Again, the picture is less encouraging with respect to the DNFBPs. While the SAT employs an AML risk model, the agency is significantly under-resourced and has been able, within the last three years, to inspect fewer than 0.2 percent of the entities for which it is responsible. In addition, the SAT has no authority to monitor for CFT compliance.

30. Sanctions are not being applied in an effective, proportionate, and dissuasive manner. While the financial supervisors have a number of remedial actions available to them, the system is geared very much towards the application of financial penalties for non-compliance with specific obligations. Due to the extended time lag in achieving a final resolution with the institutions, the majority of sanctions applied up to end-2016 were based on pre-2014 provisions, under which the penalties were extremely low. The current legislation potentially provides for more stringent penalties, but the extent to which they will result in more proportionate and dissuasive sanctions (especially for the larger institutions) can only be judged in due course.

31. Generally, the supervisors, often in cooperation with the FIU, have made welcome efforts to conduct outreach to the regulated sectors. The financial sector, in particular, considers that this has significantly improved their understanding of their obligations. Virtually all outreach to the DNFBPs

has been undertaken by the FIU rather than the SAT, focusing primarily on reporting obligations, but also addressing the results of the NRA, typologies and red flag indicators

Transparency of Legal Persons and Arrangements (Chapter 7 - IO5; R. 24-25)

32. The different types, forms, and basic features of legal persons and arrangements are defined in the Mexican law, and the processes for their creation are described at official government websites. This is public information and can be accessed on the internet.

33. The NRA does not specifically differentiate risks associated with different types of legal persons, although it mentions that using front companies is one of the most widespread ML techniques. However, LEAs, the FIU and SAT appear to have a good understanding of the risks related to the misuses of the legal persons and arrangements for criminal purposes. According to the authorities, the most widespread phenomenon is the misuse of shell and front companies to perpetrate predicate offences such as self-dealing, embezzlement, and tax evasion, as well as to invest illicit proceeds from organised criminality and corruption in real estate, restaurants, shops and other businesses in Mexico, the US or other foreign jurisdictions. There appears to be a not insignificant risk of the misuse of fideicomisos (trusts), although all fideicomisos have to be registered in one way or another.

34. There are a number of measures in place in Mexico that provide safeguards preventing the misuse of legal persons and arrangements. Bearer shares, nominee shares, and nominee directors are not allowed in Mexico. Formation of all types of legal persons (with one exception) has to be conducted through either public notaries or public brokers, who in turn are subject to AML/CFT requirements, including CDD and record-keeping and immediate reporting of this information to the FIU. In the case of fideicomisos, the trustees can only be FIs, which are subject to full range of AML/CFT obligations. All fideicomisos have to be registered either in the Registro Federal de Contribuyentes (RFC), or Trust Control and Transparency System, or Information Department of the Financial System of the Bank of Mexico. These measures, however, are effective only to a limited extent to address the risks of misuse of legal persons and arrangements.

35. There is no obligation to involve a notary when transferring shares in the company if there is no change in the constituting documents, and there is no change in the capital, although the administration of the legal person is legally required to keep a record on the books of any transferring of shares. This impacts the ability of competent authorities to obtain up-to-date information even on the most basic information regarding the legal ownership of companies in a timely manner.

36. The current system of single registers at the federal level (i.e., Registro Público de Comercio—RPC and RFC) has been fully operational only since September 2016. There are six states (Michoacán, Nuevo Léon, San Luis Potosi, Sinaloa, Tamaulipas, and Ciudad de México), where there is a backlog of companies created before September 2016 that have not been yet entered into the single federal registers. Where a legal person has not yet been entered in the RFC/RPC, it may take up to a week for the authorities to retrieve information.

37. The level of compliance with BO obligations among notaries remains weak. Given that the notaries are the central element in ensuring the accuracy and authenticity of the information that is submitted in the federal registers, this raises questions regarding the accuracy of that information.

38. In order to identify BO, authorities often have to rely on investigative techniques or international assistance, which are time-consuming and therefore do not ensure timely access to BO information.

39. There are no specific sanctions foreseen for failure to maintain a register of shareholders or members and update it accordingly (for legal persons), however, any act that is not registered in the books of the legal entity will not have legal validity. Sanctions that are available with regard to notaries and the financial institutions that act in the trustee capacity are not applied effectively.

International Cooperation (Chapter 8 - IO2; R. 36-40)

40. Mexico has a solid legal and institutional framework in place to seek and provide MLA as well as for extradition. The authorities also frequently rely on other forms of international cooperation to exchange information with other countries.

41. Mexico has decided as a policy matter to strengthen and favour other forms of cooperation while only pursuing MLA "when strictly necessary." This strategy has produced substantial results with the US The effectiveness of MLA is hampered by (i) the lack of specific guidelines for prioritizing foreign requests; and (ii) the lack of legal provisions governing controlled deliveries and joint investigation teams. As regards seeking MLA from other countries, the main shortcoming is that the PGR is neither proactive nor seems to accord a high priority to pursuing MLA when the offense has a transnational element and evidence or assets are located abroad.

Priority Actions

The prioritized recommended actions for Mexico, based on these findings, are::

- Prioritize the investigation of ML and allocate additional resources, strengthen financial investigation and internal coordination within the prosecution units, at the federal and state level. In parallel, the PGR should increase the level of specialization of its units, particularly within those dealing with ML and corruption. Assessors should indicate briefly what action is required, and the reason why it should be prioritised (e.g. that it is a fundamental building block of the AML/CFT system).
- Integrate confiscation as policy objective within the national AML/CFT policies.
- Enhance the quality of STRs by providing further guidance to reporting entities, and increase FIU disseminations to support ML investigations.
- Initiate parallel financial investigations in accordance with Mexico's ML/TF risks; to that end Mexico should provide training and technical expertise to PGR and Federal Police.
- Improve FIs' and DNFBPs' (in particular notaries, lawyers, and accountants) understanding of ML risks from corruption and their ability to manage such risks, including by: (i) deepening the NRA analysis of corruption as a ML threat; (ii) requiring entities to determine whether a beneficial owner is a PEP and apply controls in line with the standard; (iii) extending the requirements on PEPs to DNFBPs, and (iv) providing guidance on assessing and managing risks associated with domestic PEPs.

- Strengthen measures on BO by (i) extending the requirements on identifying beneficial owners including those of legal persons introduced in the February/March 2017 amendments to the entities that are not covered; (ii) engaging all FIs and DNFBPs (in particular, notaries, lawyers, and accountants) to clarify supervisory expectations regarding the requirements on beneficial owners, and providing guidance on best practices; (iii) discouraging the undue reliance on customers' self-declarations; and (iv) ensuring that adequate, accurate, and current BO information of Mexican legal persons and arrangements is available to competent authorities in a timely manner, by requiring that such information be obtained at the federal level.
- Review the resources applied to AML/CFT supervision in the light of the risk profiles emerging from the models developed by the supervisors. Immediate attention should be applied to the SAT, which is significantly under-resourced by any measure.
- Review the financial penalties available to supervisors to establish whether they can realistically be applied in a manner that is effective, proportionate and dissuasive, especially in relation to larger financial institutions. Immediate action should be taken by the SAT to establish a methodology for applying sanctions other than at the minimum level provided under the law.
- Ensure that the DNFBPs are subject to substantive CFT compliance inspections by either the SAT or another competent authority.
- Adopt the necessary legislative measures to allow Mexico to provide the widest possible international cooperation. Establish a case management system to facilitate the follow up of both passive and active requests for assistance and adopt proper guidelines describing how requests should be prioritized. Finally, the PGR should take a more proactive approach to ML investigations that have a transnational dimension.

Effectiveness & Technical Compliance Ratings

Effectiveness Ratings (High, Substantial, Moderate, Low)

IO.1 - Risk, policy and coordination	**IO.2** - International cooperation	**IO.3** - Supervision	**IO.4** - Preventive measures	**IO.5** - Legal persons and arrangements	**IO.6** - Financial intelligence
Substantial	**Substantial**	**Moderate**	**Low**	**Moderate**	**Moderate**
IO.7 - ML investigation & prosecution	**IO.8** - Confiscation	**IO.9** - TF investigation & prosecution	**IO.10** - TF preventive measures & financial sanctions	**IO.11** - PF financial sanctions	
Low	**Low**	**Moderate**	**Substantial**	**Substantial**	

Technical Compliance Ratings (C - compliant, LC – largely compliant, PC – partially compliant, NC – non compliant)

R.1 - assessing risk & applying risk-based approach	**R.2** - national cooperation and coordination	**R.3** - money laundering offence	**R.4** - confiscation & provisional measures	**R.5** - terrorist financing offence	**R.6** - targeted financial sanctions – terrorism & terrorist financing
LC	**LC**	**C**	**LC**	**LC**	**C**
R.7- targeted financial sanctions - proliferation	**R.8** -non-profit organisations	**R.9** – financial institution secrecy laws	**R.10** – Customer due diligence	**R.11** – Record keeping	**R.12** – Politically exposed persons
C	**PC**	**C**	**PC**	**LC**	**PC**
R.13 – Correspondent banking	**R.14** – Money or value transfer services	**R.15** –New technologies	**R.16** –Wire transfers	**R.17** – Reliance on third parties	**R.18** – Internal controls and foreign branches and subsidiaries
LC	**LC**	**PC**	**PC**	**PC**	**PC**
R.19 – Higher-risk countries	**R.20** – Reporting of suspicious transactions	**R.21** – Tipping-off and confidentiality	**R.22** - DNFBPs: Customer due diligence	**R.23** – DNFBPs: Other measures	**R.24** – Transparency & BO of legal persons
LC	**PC**	**LC**	**PC**	**NC**	**PC**
R.25 - Transparency & BO of legal arrangements	**R.26** – Regulation and supervision of financial institutions	**R.27** – Powers of supervision	**R.28** – Regulation and supervision of DNFBPs	**R.29** – Financial intelligence units	**R.30** – Responsibilities of law enforcement and investigative authorities
LC	**LC**	**LC**	**PC**	**C**	**LC**
R.31 – Powers of law enforcement and investigative authorities	**R.32** – Cash couriers	**R.33** – Statistics	**R.34** – Guidance and feedback	**R.35** – Sanctions	**R.36** – International instruments
LC	**PC**	**PC**	**LC**	**LC**	**LC**
R.37 – Mutual legal assistance	**R.38** – Mutual legal assistance: freezing and confiscation	**R.39** – Extradition	**R.40** – Other forms of international cooperation		
PC	**PC**	**LC**	**LC**		

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MUTUAL EVALUATION REPORT

Preface

This report summarises the AML/CTF measures in place as at the date of the on-site visit. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of the AML/CTF system, and recommends how the system could be strengthened.

This evaluation was based on the 2012 FATF Recommendations, and was prepared using the 2013 Methodology. The evaluation was based on information provided by the country, and information obtained by the evaluation team during its on-site visit to the country from February 28 to March 16, 2017.

The evaluation was conducted by an assessment team consisting of:

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- Ignacio de-Lucas, Spanish Prosecutor (legal expert)

The report was reviewed by Mr. Gonzalo Alvarado (Peru), Mr. Javier Cruz Tamburrino (Chile), and Ms. Marlene Manuel-Fevrier (Canada).

Mexico previously underwent a FATF Mutual Evaluation in 2008, conducted according to the 2004 FATF Methodology. The 2008 Mutual Evaluation concluded that Mexico was compliant with 7 Recommendations; largely compliant with 17; partially compliant with 19; and non-compliant with 6. With respect to Core and Key recommendations, Mexico was rated partially compliant or non-compliant with 9 of the 16 Core and Key Recommendations. Mexico was placed under the regular follow-up process immediately after the adoption of its 2008 Mutual Evaluation Report. Following steps taken to address deficiencies related to the 9 Core and Key Recommendations, Mexico moved from regular follow-up to biennial updates in February 2014. The 2008 Mutual Evaluation and 2014 follow-up report are publicly available at: www.fatf-gafi.org/countries/#Mexico.

CHAPTER 1. ML/TF RISKS AND CONTEXT

42. Mexico gained independence in 1821 and was established in 1857 as a federal republic. Mexico has a $1.26 trillion economy (2015), making it the fifteenth largest economy in the world, and the second in Latin America, comprising 32 states (including Mexico City). It is the third most populous nation in the Americas with a population estimated at 119.5 million (2015) of which approximately 76.5 percent live in urban areas. Mexico occupies a territory of 758 446 square miles (1 964 375 square kilometres) with the three largest cities being Mexico City, Guadalajara, and Monterrey.

43. Mexico has a free market economy strongly linked with its North American Free Trade Agreement partners—the USA and Canada. Its largest trading partner is the USA., accounting for approximately 83 percent of total exports and 48 percent of total imports (2016). The three largest sources of foreign exchange are merchandise exports (including in-bond industries), worker remittances, and tourism. During 2016, remittances to Mexico hit a record USD 27 billion.

44. Mexico's constitution provides for a tripartite government, separated into legislative, executive, and judicial branches. The bicameral Congress of the Federation (or Union), or legislative branch, is composed of a Senate and a Chamber of Deputies, which makes federal law, declares war, imposes taxes, approves the national budget and international treaties, and ratifies diplomatic appointments. The executive branch is represented by the president who is the head of state as well as the commander-in-chief of the military forces. The president also appoints the Cabinet and other senior officers (for some positions, Senate approval is needed), and is responsible of executing and enforcing the law. He has the authority to veto bills. The Supreme Court of Justice is comprised by eleven judges appointed by the president with Senate approval, who interpret laws and judge cases of federal competency. Other institutions of the judiciary are the Electoral Tribunal, collegiate, unitary and district tribunals, and the Council of the Federal Judiciary.

45. All constituent states of the Federation are largely autonomous in their internal administration and the federal government of Mexico cannot generally intervene in any particular state's affairs. The judiciary is vested upon the tribunals that each state establishes under its constitution. Mexico City is the capital of the country and seat of the power of the union. It is independently constituted and is governed by city branches.

ML/TF Risks and Scoping of Higher-Risk Issues

Overview of ML/TF Risks

ML/TF Threats

46. Based on the information provided in the authorities' NRA report and other open sources, the main proceeds-generating predicate crimes posing a high-level of ML/TF threats to Mexico appear to be drug trafficking (including in the context of organised crime groups), corruption, and tax evasion.[2] Other significant sources of laundered funds include kidnapping, extortion, intellectual property rights violations, and human trafficking. Most of these crimes are perpetrated by organised

[2] See, INCSR (2016) Volume II; p. 175 and UNODC (2011); Estimating illicit financial flows resulting from drug trafficking and other transnational organised crimes, p. 65–68. See also the ONDCP, National Drug Control Strategy 2006, p. 35. Finally, see Lohmuller, Michael (2015) Mexico Going from Bad to Worse in Prosecuting Money Laundering

criminal groups (OCGs). Despite the limited data available, it appears that large amounts of proceeds of crime (POC) generated in foreign jurisdictions (e.g., the USA and possibly Central America) could also be flowing into Mexico through international wire transfers or in cash, and this may pose notable ML threats to Mexico.[3][4] It also appears that some POC generated in Mexico could be flowing out of Mexico for laundering.

47. Drug trafficking and production proceeds are considered a major source of funds available for ML in Mexico. Mexico remains a major transit country for cocaine and heroin, and a source country for heroin, marijuana, and methamphetamine destined for the U.S.[5] Main crimes by OCGs are the trafficking of marijuana and synthetic drugs, followed by the trafficking of cocaine and production of marijuana. Major Mexico-based OCGs and their partners are solidifying their dominance of the U.S. wholesale drug trade, among other markets.[6] OCGs have access to and control of smuggling routes across the U.S. border and the capacity to produce (or obtain), transport, and distribute nearly every major illicit drug of abuse in the U.S. According to a 2011 United Nations Office on Drugs and Crime (UNODC) report, most of the income of the Mexican drug cartels is made in the U.S. Some of this money is smuggled back to Mexico, where it is laundered; whereas the rest of the money is laundered in the U.S. and other foreign jurisdictions.[7] Official data shows that the amounts have decreased significantly after strict US USD cash restrictions were established for the Mexican financial system in 2010.

48. POCs are laundered in Mexico through a diverse set of methods and using multiple sectors.[8] ML is an essential activity for OCGs in Mexico, which rely on bulk cash smuggling in both directions of the U.S.–Mexico border, traditional bank and wire transfers, and trade-based ML schemes, particularly since Mexico placed restrictions on FIs for receiving U.S. cash in 2010. OCGs accumulate property of all types in Mexico and abroad, beginning with money and foreign currency, vehicles, weapons, and jewellery; followed by urban and rural properties used as safe houses; investing in licit businesses including through setting up shell companies, and using considerable amounts of cash in economic sectors such as trading companies, restaurants, hotels, nightclubs, and building and transport companies, among others.

49. Corruption is a source of illicit proceeds, and an enabler of ML and its predicate offenses. Some OCGs have the capability of bribing or intimidating the authorities, particularly at state and local levels and, to a lesser extent, at the federal level.[9] It is difficult to measure precisely the POC associated with corruption and the level of corruption in Mexico. While Mexico is ranked at 95 in Transparency International's 2015 perception of corruption index,[10] perceptions of corruption in Mexico are ranked the most pervasive among Organisation for Economic Co-operation and

[3] International Narcotics Control Strategy Report (INCSR) 2016 Report. Volume II, ML and Financial Crimes
[4] See UNODC publication "Transnational OC in Central America and the Caribbean, Threat assessment, 2012"
[5] For example, more than 90 percent of the cocaine trafficked to North America is produced in Colombia, being smuggled by boat or submarine to Mexico or via Central America to Mexico and then by land to US and Canada (Mexico NRA).
[6] NDIC, "National Drug Threat Assessment 2011, US Dept. of Justice; See also UNODC 2011.
[7] UNODC (2011); Estimating illicit Financial flows resulting from drug trafficking and other transnational organised crimes, Research Report, page 68
[8] However, POC from other jurisdictions can be laundered in Mexico. The NRA, p. 307, shows that there are 114 requests from 20 countries for international legal assistance made to Mexico concerning ML crimes, among others, Colombia, Panama, Peru, Honduras, and the U.S.
[9] IDEA (2016), *Protecting Politics Launch: Deterring the Influence of Organized Crime*, p. 46
[10] See Transparency International, www.transparency.org/country/MEX

Development (OECD) countries.[11] Also, the World Justice Project Rule of Law Index, in the chapter related to the absence of corruption, ranks Mexico 24 out of 30 with respect to its regional group and 32 out of 37 with respect to its income group. This index suggests that corruption may also be undermining the criminal justice system in Mexico.[12]

50. Tax evasion remains significant in Mexico. Tax collection is low (although it has increased substantially in the past few years), due in part to tax evasion, as well as deficiencies in the judicial system that have led to few convictions and incarcerations for tax fraud. While Mexico has made important progress in combating tax evasion by enhancing the capacity of its tax administration service, a study commissioned by the SAT estimates the amount of tax evasion and tax avoidance in Mexico to be approximately MXN 483 875 million (equivalent to USD 23 341 million approximately based on current exchange rate) in 2012.[13]

51. Finally, while not insignificant, the TF risks appear much lower than the ML risk. There are no known international terrorist organizations operating in Mexico. Mexican security agencies tracked open-source reports claiming that terrorist training camps existed in Mexico, most recently in April 2015. In each instance, the media reports have been found to be unsubstantiated.[14] Neighbouring foreign authorities also do not consider as a possible threat terrorist illegal border crossing as an imminent nor significant threat within the Mexican borders.[15] Nonetheless, porous borders could facilitate the movements of terrorists from South and Central America to the U.S.[16] The NRA has analysed the threats and the vulnerabilities in order to obtain the probability that Mexico can be used for TF. The NRA concludes that the potential existence of national terrorists or the implantation of terrorist cells in the Mexican territory, the possibility that great amounts of funds can be raised to finance terrorism, and the existence of foreign terrorist fighters in Mexico is a low risk. Whilst the NRA acknowledges that illegal immigration into the U.S. is a common phenomenon, and that theoretically terrorists could cross the border as migrants, this is not however considered by the authorities as an imminent nor significant threat.

ML/TF Vulnerabilities

52. A regionally well-connected financial sector, a sophisticated regulatory framework, and a large cash-based economy pose significant challenges for Mexico's AML/CFT regime.[17] The banking sector, in particular the seven largest banks (known as the G-7), appears to pose the highest ML risk followed by brokerage firms (which offer money/value transfer services and handle large amounts

OECD (2015), *OECD Economic Surveys: Mexico 2015*, OECD Publishing, Paris. http://dx.doi.org/10.1787/eco_surveys-mex-2015-en. On a scale of 1 to 5 (1 being "not at all corrupt" and 5 being "extremely corrupt"), Mexico ranked as most corrupt among OECD countries at 3.8

[12] *The WJP Rule of Law Index and the World Justice Project Rule of Law Index*, country profiles, https://worldjusticeproject.org/sites/default/files/documents/RoLI_Final-Digital_0.pdf,

[13] NRA, page 49. SAT published a list in December 2015 of 1 031 taxpayers who had supposedly conducted non-existent transactions valued at MXN 442 954 million linked to 63 000 companies that deduct tax or request tax rebates for non-existent transactions, and also published a list of 558 companies that invoiced non-existent transactions, included on the final list associated with 35 682 tax refunds for non-existent transactions, as per Article 69-B of the Federal Tax Code. The effect on revenue of these publications exceeded MXN 3 448 million. See NRA page 48

[14] See US Department of State (2015), Chapter 2. Country Reports: Western Hemisphere Overview , www.state.gov/j/ct/rls/crt/2015/257519.htm

[15] See US Department of State (2016), Chapter 2. Country Reports: Western Hemisphere – Mexico, www.state.gov/j/ct/rls/crt/2016/272234.htm#Mexico

[16] See NRA, p. 374

[17] IMF Country Report Financial System Stability Assessment, IMF Country Report No. 16/361, November 2016
See also NRA for Mexico, table 48

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of cash in USD[18]) and various money service providers (e.g., exchange houses, exchange centres, and money transmitters), due to the types of activities and services performed (e.g., exchange transactions, and national and international transactions can be made or accepted). The G-7 banks account for about 80 percent of total bank assets. The G-7 banks all have product and service risk characteristics (e.g., cash transactions, exchange transactions, domestic and foreign transfers, transactions through commission agents may be executed, products or services that make it possible for at least one of the parties in the transaction not to be identified).[19] With regard to the geographical area, the G-7 banks also present a high risk, as they have a high percentage of cash transaction reports (CTRs), STRs, and USD CTRs involving transactions in areas where there is a high level of predicate offences, the bases of the OCGs, and high ML risk (e.g., the northern border). Quarterly cross-border wire transfer of funds reports (TIF) also show a high percentage of these reports involving transactions with high risk foreign jurisdictions.[20]

53. With high regional rates of migration, a sizable informal economy (23.6 percent of GDP),[21] low financial inclusion, weak border controls, and high volume smuggling of USD, Mexico faces a significant challenge in detecting criminal from the licit flows. Although there are various programs and initiatives for bringing licit informal activities into the formal economy, as well as financial inclusion policies that improved access and use of financial products and services and therefore mitigate some of the ML risk associated with informal economy, the proliferation of cash, the ease with which it can be moved, and a reluctance of certain people to use the financial system, constitute significant vulnerabilities.

54. The criminal justice system does not appear to be delivering good results in some areas. Confiscation and conviction rates appear to be low.[22] The statistics submitted by the authorities show the results of actions taken to combat ML, among them, currency seized, and convictions, which seem low in the context of Mexico's exposure to drug and organised crime ML.

Country's risk assessment & Scoping of Higher Risk Issues

Country's Risk Assessment

55. Mexico concluded its first NRA report in June 2016, following a two-year government-wide ML/TF risk assessment exercise. The first stage of the process was carried out by the FIU in coordination with other competent authorities including lawmakers, supervisors, Banco de México, *Instituto Nacional de Estadística y Geografía* (INEGI), intelligence services, LEAs, and the PGR, and was based in a diverse range of information and documentation, being the reports on suspicious and threshold transactions, a key source of quantitative data for the NRA. The second stage benefited greatly from consultations with the private sector including industry associations, self-regulatory bodies, and researchers through surveys and questionnaires prepared by the FIU that focused on inherent ML/TF risks of FIs and DNFBPs and their activities. The NRA discusses structural factors including corruption and issues related to the effectiveness of the AML/CFT framework.

[18] See NRA, Chapter 5, page 104–105
[19] NRA, page 163
[20] NRA, page 164
[21] Source: Authorities' preliminary estimates for 2015
[22] See Annex IO.7.3, the U.S. State Department, "International Narcotics Control Strategy Report (INCSR) 2016, Volume II; See also Zapata et al.(2016), "ML and Financial Risk Management in Latin America, with Special Reference to Mexico"

56. The background information used to reach conclusions seems credible and factual. The assessment focused on ML risks from criminal activities taking place mainly inside the country, POC that need to be laundered, and sectors affected by ML. The document also includes an assessment of the economic consequences of ML/TF. Overall, the process of conducting the risk assessment was adequate. In this regard, this was a proper first exercise of the Mexican government to develop an NRA on AML/CFT. Nevertheless, there are several areas that require further improvement which should be considered by Mexican authorities in future updates.

57. Overall, the NRA relies on many sources of information, but more weight is given to the FIU information. The section on "Regulatory and supervisory authorities of the AML/CTF regime" is based on hard data provided by all supervisors (*Comisión Nacional Bancaria y de Valores* (CNBV), *Comisión Nacional de Seguros y Fianzas* (CNSF), *Comisión Nacional del Sistema de Ahorro para el Retiro* (CONSAR), and the SAT). Also, LEAs and the judicial branch (PGR, *Servicio de Administración y Enajenación de Bienes* (SAE), and *Consejo de la Judicatura Federal*) provided hard data to assess the "Investigation and granting of justice regarding ML/TF cases."

58. The conclusions do not appear to be reasonable or complete in some respects. With respect to corruption, the NRA's analysis was focused on the "perception of corruption" and the framework and measures in place to tackle corruption. The NRA recognized the "perception of corruption" as highly vulnerable to ML as it facilitates crime and undermines law enforcement efforts. It also recognizes corruption as one of the many predicate offences that exist in Mexico. The NRA, however, fails to assess its significance and identify corruption as a main ML threat. In the case of legal persons and arrangements, the risk they represent is not entirely discussed. Furthermore, the NRA could have better reflected the ML/TF trends and typologies commonly used in the large informal economy (e.g., trade-based ML). Mexico could continue to improve its analysis on the amounts of POC generated abroad and laundered in or through Mexico, in particular from Central America and the Caribbean. Finally, authorities could have analysed in the NRA the corruption-related ML risks with more clarity and depth, particularly the significance of corruption as a ML threat.

Scoping of Higher-risk Issues

59. The following are areas that the assessment team considered to warrant more focused attention:

- In light of the main threats (i.e., drug trafficking, corruption and tax evasion), the banking sector appears to present the highest risk of ML. The team explored the banks' appreciation, of the ML risks, in particular the G-7's, including in relation to correspondent banking relationships, mitigation strategies, and controls they have put in place, in particular for the use of USD and trade-based ML.
- Brokerage firms and money service providers also appear to be vulnerable channels of ML activity in Mexico. The team explored, in particular, their appreciation of the ML/TF risks, risk-mitigation strategies, and controls they have put in place, in relation to their operations.
- The assessors also focused on how well AML/CFT supervision of the G-7 segment of the multiple banks, brokerage firms, MVTS, and multiple commercial bank institutions is being conducted.

- In light of the evidence that companies are frequently involved in ML schemes, the assessors also focused on how well they are prevented from misuse, and ascertain whether competent authorities have adequate, accurate, and timely access to BO and control information.
- As a cross-cutting issue, the team discussed the placement of cash (including cash smuggled from the U.S. into Mexico by cash couriers) into the financial system and the efforts to address the associated risks.
- The team focused on measures taken by the authorities (in particular LEAs, public prosecutor's office, judiciary, and international cooperation in terms of financial intelligence between FIUs and between LEAs) to mitigate ML threats, and their capacity and strategies to do so, especially in relation to securing greater numbers of ML convictions and confiscations of POC.
- In light of Mexico's efforts and leading role in promoting financial inclusion, the team explored the extent to which the country's policies on financial inclusion and AML/CFT are coordinated and the implications of the former for the latter

Areas of lesser risk and attention

60. The team assessed the insurance sector and considered that it is an area of possible lower ML/TF risk. Also, the NRA and the discussions with the authorities pointed out that some obliged sectors present lower risk of ML (e.g., Public Trust Providers, property leasing, prepaid cards, transportation and custody of cash and valuables, receipt of donations, professional services, and monetary value storage instruments).[23] The assessment team devoted less attention to these areas.

Materiality

61. According to the INEGI, the GDP at market price was MXN 18 127 177.52 during 2015, which is divided between the primary (raw materials), secondary (manufacturing) and tertiary (services) sectors in 3.61, 32.7 and 63.62 percent Mexico hold the fifteenth place worldwide with respect to the size of the GDP in 2015. According to the Bank of International Settlements, in 2013, the peso held the eighth place among the most transacted currencies in the world, and it is the most transacted currency in emerging countries.

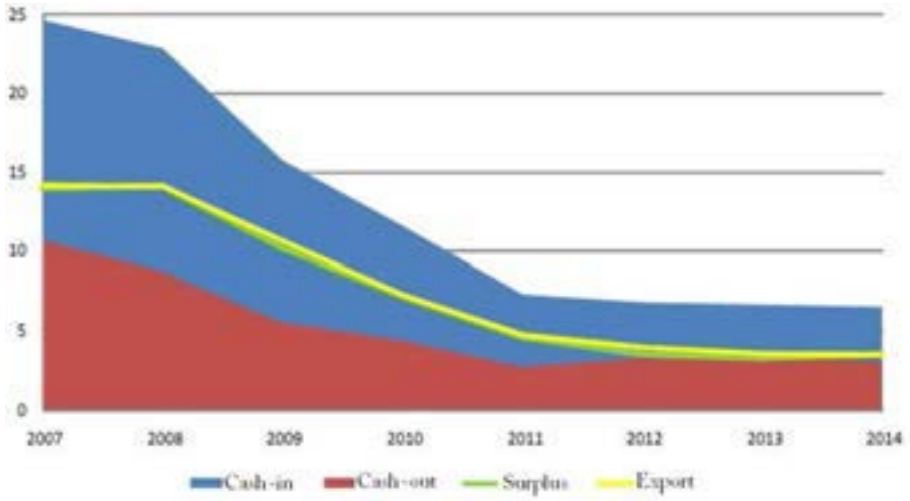
62. Mexico's financial sector is bank dominated and relatively small compared with other emerging market peers.[24] Financial sector assets amounted to 90 percent of GDP in 2015, with over half being commercial banking assets. Development banks activities have grown rapidly since the 2014 reforms reaching around 10 percent of financial sector assets by end-2015. The non-bank sector remains underdeveloped, but has been growing at a faster pace than banks in recent years. Pension funds, mutual funds, and insurance companies account for 30 percent of financial sector assets. Other financial intermediaries—regulated and unregulated non-deposit-taking FIs (SOFOMEs), savings and credit institutions, and deposit warehouses operating mostly in rural areas—are small but play an important role in microfinance and financial inclusion.

[23] See NRA, table 8
[24] IMF Country Report Financial System Stability Assessment, IMF Country Report No. 16/361, November 2016 page 10

63. All types of DNFBPs are present in Mexico. The largest sector (in terms of assets) covered by the AML/CFT regime is vehicle dealers, followed by real estate dealers and precious metals and stones dealers.

64. Large circulation of physical cash (in MXN and USD) remains a concern. While there has been a considerable reduction in transactions with USD from 2007 to 2014, the surplus and export of USD continue to be significant (USD 5 billion in 2014).[25] In order to understand the nature of such transactions, the FIU and Central Bank of Mexico issued a request for information addressed to banks, exchange centres, and brokerage firms in 2009. Based on the information received, the authorities could not identify in 2007 the specific origin of the USD surpluses, however, the authorities attributed the licit surpluses to border trade, tourism, or migrants' remittances received in cash, and the part of this surplus that had not been explained for licit economic purposes could possibly related to illicit proceeds. From 2010 to 2014, the Secretaría de Hacienda y Crédito Público (SHCP) issued modifications to the AML/CFT regulations to limit the collection of USD for the sectors above-mentioned. In contrast to a significant reduction in the use of USD, more recently there has been an increase in the use of Mexican pesos, which has grown at an average annual rate of 13.2 percent, whereas the rate for transfers has been 5.7 percent (see **Figure 1**).[26]

Figure 1. **Amount of Cash-In, Cash-Out, Surplus and Export (in USD Billion)**



Structural Elements

65. As it was indicated in the NRA, some key structural elements for effective AML/CFT controls do not appear to be present in Mexico. While political and institutional stability are well established, accountability and the rule of law are relatively weak, considering Mexico ranks relatively low in these respects. [27]

66. The benefits of the new judicial system remain to be seen. However, some progress has been made in reforming the criminal judicial system, which shifted from a written system that was slow and lacked credibility to an oral "adversarial" one that allows for cross-examination. The new system is fully operational for state-level offenses (for all cases) in all the states. According to the

[25] See NRA, page 101
[26] See NRA, page 76 to78
[27] See Transparency International Indicators and World Economic forum reports.

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authorities, the new judicial system, allows hearings to take place in the presence of a judge, and to be public and oral to promote transparency, equity and impartiality. The investigation stage is shortened under the accusatory system. However, the prosecution office and the LEAs still need to adapt to the new procedural requirements of the oral system.

Background and other Contextual Factors

Corruption

67. Corruption is one contextual factor that may significantly influence the effectiveness of the country's AML/CFT measures. Corruption is an enabler of ML and its predicate offenses. The traditionally weak criminal justice system has helped to promote a public sector that is perceived as being highly corrupt at least at the state and local levels. While this is partly because of the inefficiency of a legal system that prosecutes few predicate crimes and ML, it also results from other institutional weaknesses in the local security forces in areas that are hubs for organised crime (e.g., Veracruz, Baja California Sur, Sinaloa, and Jalisco).[28] An important concern of the authorities is the need to reduce the OCGs capability of bribing or intimidating the authorities, particularly at state and local levels and, to a lesser extent, at the federal level.

68. Laws of the National Anti-Corruption System were enacted on July 18, 2016. The promulgation of these laws substantially transforms the anti-corruption architecture of Mexico by putting in place a number of measures (e.g., creating an Anti-Corruption Prosecutor and specialised anti-corruption courts). One of the most important game changers of the reforms is that they reach beyond the federal level and include all levels of government. The new law obliges the Mexican states to follow suit with their own local anti-corruption systems, thereby tackling some of the loopholes of anti-corruption in Mexico. However, for this crucial reform to support the effectiveness of the AML/CFT regime, the key to real change on anti-corruption practices lies in its implementation.

Informality

69. Although many parts of the economy are formal, informality is uneven in different sectors of the economy. (e.g., commerce—44 percent, manufacturing—23 percent, construction—11 percent). Fifty-seven percent of workers have an informal employment relationship, and a majority of small businesses still operate in the informal sector. The government has started to address the problem through the creation of a new tax regime for micro- and small enterprises, which seeks to promote formalization of the workforce, and through a comprehensive strategy launched in 2014 to "Go Formal"[29], which pools the benefits and resources of different programs. The NRA identified the high use of cash and relatively large informal economy as a situation that significantly increases the risk that illicit proceeds may be re-channelled into the regulated formal economy.

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[28] OECD (2015), *OECD Economic Surveys: Mexico 2015*, OECD Publishing, Paris. http://dx.doi.org/10.1787/eco_surveys-mex-2015-en. See also a 2014 report from the Secretary General of National Public Safety (SESNSP) on "*Evaluacion del control de la confianza y certificacion al personal del servicio professional de carrera de las Instituciones de Seguridad Publica*."

[29] "Go Formal" initiative aims to stimulate formal employment by facilitating the participation of informal firms in the formal economy, and strengthens inspections of enterprises regarding their fulfilment of social security obligations, which is a welcome step to further reduce informality.

Financial Inclusion

70. Financial inclusion remains high on the authorities' agenda. According to the latest Financial Sector Assessment Program (FSAP), financial services' provision is concentrated in urban areas, with only 29 percent of the poorest Mexican population having an account, compared to an average of 41 percent in Latin America.[30] The introduction of Levels 1, 2 and 3 accounts (see discussions below as well as criterion 1.8 in Technical Compliance Annex—TCA) represent an effort of the Mexican authorities to strike a balance between promoting financial inclusion and managing ML/TF risks.

AML/CFT Strategy

71. Since the publication of the 2010 AML/CFT Strategy, Mexico has made great strides to build a comprehensive and solid legal and institutional AML/CFT framework, which has included: (i) the issuance or amendment of several laws and regulations to criminalize ML/TF consistent with the FATF standard; (ii) improve the efficiency of the prevention and combating of ML; (iv) establish all necessary obligations for FIs (including financial supervisory and CDD requirements); (iii) incorporate all DNFBPs and other risky businesses and professions into the AML/CFT regime; (v) establish an asset freezing regime for terrorists, TF and ML; (vi) improve national coordination of agencies; and (vii)enhance the effectiveness of the judicial and the anti-corruption system. Following the conclusion of the NRA in June 2016, the country is in the process of finalizing and documenting a revised national strategy to address identified ML/TF risks in the NRA that will result in policies to more effectively mitigate those risks.

Legal & Institutional Framework

72. ML and financing terrorism are federal crimes. Thus, federal authorities are responsible for directly participating in the prevention of and combat against such crimes, without excluding the collaboration that state or municipal authorities may provide within their respective scope of competence. The national authorities that participate in the prevention of and fight against ML/TF are the following:

Ministries

73. Under constitutional provisions (Article 90) and legal provisions (mainly compiled in a single federal statute titled "The Organic Law of the Federal Public Administration"—"*Ley Orgánica de la Administración Pública Federal*" the administrative affairs of the federation are handled by secretariats (i.e. ministries) that are considered part of the Centralized Federal Public Administration.

74. The ministries involved in AML/CTF actions are:

The Ministry of Finance and Public Credit (SHCP)

75. Through some of its several administrative units (see following paragraphs), the SHCP plays a key role in the prevention and detection of ML/TF activities mainly by issuing AML/CFT regulations applicable to FIs and other obligated businesses, supervising their compliance thereof,

[30] IMF Country Report No. 16/361, Financial System Stability Assessment, page 30.

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and receiving and analysing reports and information concerning transactions relating to ML/TF. The SHCP is in charge of regulating FIs and granting authorizations or licenses for the creation and operation of each of them. The Undersecretary of Finance and Public Credit prepares all regulations applicable to FIs through the following units:

- Banking, Securities, and Savings Unit (*Unidad de Banca, Valores y Ahorro*).
- Insurance Pensions and Social Security Unit (*Unidad de Seguros Pensiones y Seguridad Social*).
- Development Banking Unit (Unidad de Banca de Desarrollo).

76. Although the SHCP is not directly in charge of supervising compliance of the AML/CFT regime, such a function is carried out by the following agencies that are part of the structure of the SHCP, and referred to as decentralized bodies (*órganos desconcentrados*, i.e. agencies with technical autonomy in respect of the policies and lines of action they follow that are governed by boards integrated with government officers—the majority of which are appointed by the SHCP – and, in some cases, representatives of the private sector):

- National Banking and Securities Commission (*Comisión Nacional Bancaria y de Valores*—CNBV).
- National Insurance and Sureties Commission (CNSF).
- National Retirement Savings System Commission (CONSAR).

FIU (Unidad de Inteligencia Financiera—FIU)

77. The SHCP houses the FIU, which is a department that depends on the Minister of Finance and Public Credit. The Unidad de Inteligencia Financiera is Mexico's FIU. It is an administrative agency part of the SHCP. It is the national central authority for the reception, analysis, and dissemination of financial information relating to ML/TF cases.

The Ministry of Foreign Affairs (Secretaría de Relaciones Exteriores)

78. It negotiates and signs treaties, agreements, and conventions on behalf of Mexico; acts as the transmitter of rogatory letters; and generally assists in MLA and extradition matters.

Law Enforcement and Operational Bodies

The Attorney General's Office (PGR)

79. It is responsible for investigating and prosecuting all federal crimes, including ML and terrorism financing. The *Subprocuraduría de Investigación Especializada en Delincuencia Organizada* (SEIDO) has primary responsibility for criminal ML and TF enforcement.

80. The SEIDO is comprised of six specialised units: the Specialised Unit for the Investigation of Offenses Against Health (the Special Drug Offenses Unit); Specialised Unit for the Investigation of Operations with Resources of Illicit Origin and Forgery or Alteration of Currency (Special AML Unit); Specialised Unit for the Investigation of Terrorism and Traffic of Weapons (Special Antiterrorism Unit that will analyse, along with the AML Unit, the TF cases); Specialised Unit for the Investigation

of Kidnappings; Specialised Unit for the Investigation of Traffic of Undocumented Persons, Minors, and Organs (Special Human Trafficking Unit), and Specialised Unit for the Investigation of Vehicle Theft. In addition to these national units, regional offices of the PGR also prosecute ML offenses that fall within their locality and are not handled by the national units. The PGR is assisted by the *Agencia de Investigación Criminal*, a police force under its authority and immediate command. Additionally, the PGR is responsible for requesting and receiving MLA requests on criminal matters made pursuant to treaties or on the basis of reciprocity.

The Federal Police

81. The Federal Police is a police force under the authority and immediate command of the Ministry of the Interior (SEGOB) and has the following main objectives:

- Safeguarding the life, integrity, security and rights of individuals, as well as preserving public liberties, order and peace;
- Implement and operate the public security policy in the area of crime prevention and combat;
- Preventing the commission of crimes, and
- Investigate the commission of crimes under the direction and command of the Public Ministry of the Federation, only in specific cases as an indirect agency and only when requested by this authority. This function does not constitute its principal duty.

82. It is important to mention that the Federal Police has a dedicated AML unit under the drugs department to assist the Public Ministry of the Federation in the investigation of ML cases, when requested by this authority, without hampering its obligations and in full coordination with other police corps such as the Federal Ministerial Police which, as different agency, has other tasks and is under a different authority as explained in the next paragraph.

Federal Ministerial Police (Policía Federal Ministerial)

83. The Federal Ministerial Police is a police corp under the authority and immediate command of the PGR. This police force as a direct auxiliary of the Agents of the Public Ministry of the Federation is responsible for the investigation of a specific event (prior criminal complaint or ex officio) and the subsequent indictment (alleged perpetrators) to the judge.

The General Customs Administration (Administración General de Aduanas)

84. The *Administración General de Aduanas* is an administrative unit of the SAT, empowered to receive all declarations of cash or monetary instruments exceeding USD 10 000 in value which are being transported across the border and reports these declarations to the FIU. In 1999, Customs created the Supporting Unit for Fiscal and Customs Inspection which implements measures to prevent smuggling of foreign trade merchandise, particularly money, drugs, tobacco, liquor, arms, cars, and jewellery.

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The Public Sector Assets Management and Disposal Service (SAE)

85. The SAE was established in accordance with Article 76 of Federal Law for the Administration and Dsiposition of Public Assets or "*Ley Federal para la Administración y Enajenación de Bienes del Sector Público.*" The main objective of the SAE is to contribute to the strengthening of public finances and property rights through effective and efficient management and transfer of property and enterprises, including through the destruction of assets and liquidation of enterprises assigned to it. The SAE can administer, dispose of, or destroy property of the public sector either directly or through trustees, liquidators, or administrators it may appoint. Those trustees, liquidators, or administrators shall preferably be units or entities of the Federal Public Administration, or the state and municipal authorities. The SAE will have the following supporting committees: Committee of Insured Assets; Committee of Donations; and other committees that are required. The Committee of Insured Assets referred to by Section I of the previous article, will have the following scope: act as a supportive entity to the SAE regarding the administration, transfer, and destruction of the insured, confiscated, and abandoned assets within federal criminal proceedings, which are transferred to that organ; issue the respective opinion regarding the economic compensation for the devolution of such assets, with charge to the corresponding fund.

Other Financial Sector Bodies

Banco de México (Bank of Mexico)

86. It is the central bank of Mexico. Its powers and administration are constitutionally autonomous as provided under Article 28 of the Constitution. Its main purposes are to provide the economy with national currency and attain the stability of the purchasing power of such currency. Additionally, it is in charge of promoting a healthy development of the financial system and fostering the good operation of payment systems.

Financial sector and DNFBPs

87. Mexico's financial sector is dominated by banks and highly concentrated around conglomerate structures—which usually include a bank and entities in the insurance and securities sector. The seven largest banks (known as G-7), all fully owned by financial groups, account for about 80 percent of total bank assets. The sector has a large foreign presence, but most activity remains local. Nevertheless, Mexico's financial sector is rapidly integrating into the global financial system, and at a faster pace than many of its emerging market peers (especially in Latin America).[31]

88. There are a wide and diverse range of non-core financial intermediaries including cooperative savings and loans companies, credit unions, multiple purpose finance companies, etc. serving many members of the society with limited access to banking services. The money services business (MSBs) operating in Mexico include money remitters, exchange centres that only conduct currency exchange, and exchange houses that are authorized to carry out both remittance and currency exchange activities. Money remitters and exchange centres are supervised only for AML/CFT purposes while exchange houses are also regulated for prudential purposes. Exchange centres can only deal with cash or travellers' cheques and are subject to a cap of USD 10 000 per customer per day. There are around 1 500 of them, many located in the northern states. In addition,

[31] IMF Country Report No. 16/361, Financial System Stability Assessment, pages 11 and 18.

there are entities that provide limited financial services on a very small scale and are not regulated as FIs. They are nevertheless categorized as VA hence are subject to AML/CFT requirements.

89. The tables below illustrate the types of FIs, their numbers, size and activities:

Table 1. **Types of Financial Institutions**

Type of Institution	Number of Entities as of December 2015	Assets in millions MXN as of December 2015	AML/CFT Supervisory Authorities
FIs			
Banks	44	7 699 658	CNBV
Development Banking Institutions	6	1 547 177	
Brokerage Firms	36	575 574	
Multiple Purpose Finance Companies (SOFOME ER)	34	380 497	
Cooperative Savings and Loans Companies (SOCAP)	145	100 930	
National Development Financial Entity for Agricultural, Rural, Forest and Fisheries	1	48 605	
Credit Unions	92	45 877	
Popular Financial Companies (SOFIPO and SOFINCO)	45	26 978	
General Deposit Warehouses	14	12 516	
Investment Fund Operators	34	9 166	
Exchange Houses	8	619	
Investment Fund Distributors	7	209	
Unregulated Multiple Purpose Finance Companies (SOFOME ENR)	1 443	Unknown	
Exchange Centres	1 215	Unknown	
Money Remitters	51		
Investment Advisors	24	Unknown	
Insurance companies	102	1 164 846	CNSF
Bonding companies	15	23 979	
Retirement Fund Administrators	11	2,550,896	CONSAR
FIs categorized as VA **(numbers as of 2014)**			
Travellers' cheques companies	7	Unknown	SAT
Value storage cards companies [1]	34		
Loans, money lending and Credit companies	10 020	7 871 982	
Credit & Service Card companies	700	1 363 516	
Transportation and custody of cash and valuables companies	60	Unknown	

Table note

1. These also include prepaid cards, vouchers, and coupons companies.

Table 2. **Activities Covered Under FATF Standard**

Activities Covered Under FATF Standard	Type of FIs authorized to conduct such activities
1. Acceptance of deposits and other repayable funds from the public (including private banking).	Banks, development banks, SOFIPOS, SOCAPS, SOFINCOS, credit unions, investment funds.
2. Lending (including consumer credit; mortgage credit; factoring, with or without recourse; and finance of commercial transactions (including forfeiting).	Banks, development banks, SOFIPOS, SOCAPS, SOFINCOS, credit unions, SOFOMES, loans, money lending and credit companies, credit card and service card companies, pawn shops.
3. Financial leasing (other than financial leasing arrangements in relation to consumer products).	Banks, development banks, credit unions, SOFOMES, SOFIPOS, SOCAPS, SOFINCOS.
4. The transfer of money or value, including financial activity in both the formal or informal sector (e.g. alternative remittance activity), but not including any natural or legal person that provides FIs solely with message or other support systems for transmitting funds).	Banks, development banks, SOFIPOS, SOCAPS, SOFINCOS, exchange houses, brokerage firms, money remitters, retirement fund administrators.
5. Issuing and managing means of payment (e.g., credit and debit cards, checks, traveller's cheques, money orders, and bankers' drafts, electronic money).	Banks, development banks, SOFIPOS, SOCAPS, SOFINCOS, SOFOMEs, travellers' cheques companies, value storage cards companies (including prepaid cards, vouchers and coupons companies).
6. Financial guarantees and commitments.	Banks, development banks, credit unions, insurance companies, sureties/bonding companies.
7. Trading in: • money market instruments (checks, bills, certificates of deposit, derivatives, etc.); • foreign exchange; • exchange, interest rate and index instruments; • transferable securities; and • commodity futures trading.	Banks, development banks, brokerage firms, investment funds, retirement fund administrators, exchange houses, exchange centres.
8. Participation in securities issues and the provision of financial services related to such issues.	Banks (including development banks), SOCAPS, SOFOMES, credit unions, brokerage firms, investment funds, investment advisors.
9. Individual and collective portfolio management.	Banks, development banks, brokerage firms, SOFOMES, retirement fund administrators, investment funds and investment advisors.
10. Safekeeping and administration of cash or liquid securities on behalf of other persons.	Banks, brokerage firms, investment funds, transportation and custody of cash and valuables companies, warehousing companies.
11. Otherwise investing, administering, or managing funds or money on behalf of other persons.	Banks, development banks, brokerage firms, SOFORES, investment funds, retirement fund administrators.
12. Underwriting and placement of life insurance and other investment related insurance (including insurance undertakings and to insurance intermediaries (agents and brokers)).	Insurance institutions, intermediaries and mutual insurance societies
13. Money and currency changing.	Banks, development banks, exchange houses, exchange centres

90. Mexico has subjected all types of DNFBPs to AML/CFT requirements. Notaries are key gatekeepers in many fronts of the AML/CFT regime including formation of companies, real estate transactions and authentication of identification documents. There are a large number of lawyers (around 450 000) and accountants (around 600 000) offering a wide range of professional services including those covered by the standard. Only a very small percentage of them belong to one of the associations/colleges, and there is no information on how many of these perform covered activities thus are subject to AML/CFT obligations. As illustrated in the table below, for each sector, only a portion of the operators are registered with the FIU (for lawyers and accountants, this portion AML/CFT is extremely low). There is no evidence that all firms—especially lawyers and accountants—subject to AML/CFT obligations are registered with the FIU.

Table 3. **Types of DNFBPs**

DNFBPs Covered by the Standard	Total Numbers as of 2014	Fixed Assets as of 2014 (millions MXN)	Numbe of operators registered with the FIU as of on-site	AML/CFT Supervisory Authorities
Gambling and Lottery	1 041	9 766 732	237	SAT
Real estate agents	Unknown	50 044 017	12 717	
Marketing of precious metals and stones	13 767	100 640 105	2 961	
Transportation and custody of cash and valuables[1]	60	Unknown	54	
Lawyers	Unknown	Unknown	2 484	
Accountants	Unknown	Unknown		
Public notaries	4 000+ (estimate as of on-site)	2 526 429	3 726	
Public brokers	411	Unknown	342	

Source: NRA (tables 86 and 88), Annex 1 of the MEQ, FIU

Preventive measures

91. The preventive measures applicable to various FIs are embedded in primary laws governing the respective sectors and further spelled out in regulations issued by the SHCP pursuant to the respective laws (see TCA for details). The regulations applicable to various sectors are similar in structure and tailored to respective sectors. Since 2008, Mexico has focused on strengthening the legal and institutional AML/CFT framework in line with the evolving standard, which has included the issuance or amendment of several laws and regulations., Some of the most recent amendments have focused on enhancing transparency on trusts (2014) and allowing further information sharing among Mexican banks and foreign FIs (2014). The latest amendment to the regulations were issued in February/March 2017 applicable to FIs centres[32] with transitory periods for existing FIs which

[32] For brokerage firms: www.dof.gob.mx/nota_detalle.php?codigo=5475647&fecha=09/03/2017
For money remitters: www.dof.gob.mx/nota_detalle.php?codigo=5475646&fecha=09/03/2017
For exchange houses: www.dof.gob.mx/nota_detalle.php?codigo=5475645&fecha=09/03/2017

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vary from one provision to another, hence were not in force during the on-site and not taken into consideration in the analysis of this report. Once take effect, these amendments would strengthen obligations of certain FIs, including on identifying beneficial owners and assessing ML/TF risks based on customers, products and services, geographical factors and delivery channels. Entities that carry out financial activities categorized as VA are subject to the same legal framework as DNFBPs (see below).

92. DNFBPs were brought into the AML/CFT regime in 2014, which marks an important step forward since Mexico's last MER in 2008. In addition to the activities covered by the standard, Mexico subject certain other activities deemed to be high-risk to AML/CFT requirements. These include for example vehicle dealers and art dealers. DNFBPs' AML/CFT obligations are embedded in *Federal Law for the Prevention and Identification of Transactions with Illicit Proceeds* and further spelled out in *Regulations of the Federal Law for the Prevention and Identification of Transactions with Illicit Proceeds* and *General Regulations Derived from the Federal Law for the Prevention and Identification of Transactions with Illicit Proceeds*. These measures apply to different types of DNFBPs only above certain thresholds which vary from one sector to another.

Legal persons and arrangements

93. Under Mexican law, there is a wide variety of legal entities which can be classified in many different ways. Private entities include: "Societies" (term used under Mexican law to refer to a special type of corporate partnership) of civil or commercial nature; labour unions, professional associations, and other entities formed by workers or employers; cooperative and mutual societies; other associations with political, scientific, artistic, recreational, or any other legal purpose, provided they are "not unknown" by law; and foreign private entities, i.e., private entities governed by the law of the state in which they were incorporated. Since September 2016, there is also a specific type of company available in Mexico—Simplified Company by Shares (*Sociedad por Acciones Simplificada*). It was created in an effort to stimulate small business and encourage entrepreneurship. It can be formed electronically through the Public Registry of Commerce, it does not require a minimum stock capital, and a minimum of two partners. The company income is capped at MXN 5 million, after which the company has to be transformed into a usual company.

94. Although, under Mexican law only individuals or legal entities are entitled to own property, some other legal arrangements can be established under Mexican law to segregate certain rights or obligations, including property rights of assets. Such arrangements are: *fideicomisos* (an

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For SOFOMEs: www.dof.gob.mx/nota_detalle.php?codigo=5475644&fecha=09/03/2017
For exchange centres: www.dof.gob.mx/index.php?year=2017&month=03&day=09
For SOFIPOS and SOFINCOS:
www.gob.mx/cms/uploads/attachment/file/209160/DCG_Compiladas_Entidades_De_Ahorro_y_Credito_Popular.pdf
For warehouses:
www.gob.mx/cms/uploads/attachment/file/209164/DCG_Compiladas_Almacenes_Generales_de_Deposito.pdf
For SOCAPs:
www.gob.mx/cms/uploads/attachment/file/209162/DCG_Compiladas_Sociedades_Cooperativas_de_Ahorro_y_Prestamo.pdf
For investment advisors:
www.gob.mx/cms/uploads/attachment/file/209165/DCG_Compiladas_Asesores_en_Inversiones.pdf
For credit unions: www.gob.mx/cms/uploads/attachment/file/209163/DCG_Compiladas_Uniones_de_Credito.pdf

arrangement with similar legal effects as those produced by trusts) and "associations in participation" (i.e., joint ventures).

Supervisory arrangements

95. The SHCP is the body responsible for the overall regulation of compliance with AML/CFT obligations, but operational responsibility is delegated by statute to the CNBV, CNSF, CONSAR, and SAT respectively (refer to Table 3 above for their respective purview).

96. The primary legislation governing each type of institution within the financial sector and accompanying regulations grants CNBV, CNSF, and CONSAR a broad range of powers to supervise licensed and registered institutions for compliance with both prudential and AML/CFT requirements. The three financial supervisors have statutory powers to conduct inspections, request any relevant information from the institutions that they supervise and apply sanctions for non-compliance with the preventive measures but the CNBV does not have explicit power to revoke a banking license for breaches of AML/CFT failings.

97. The SAT is responsible for monitoring and ensuring compliance of all VA (including defined financial activities and DNFBPs) with AML/CFT obligations. It does not have the authority to monitor for CFT compliance. SAT has powers to perform inspections and request information but its powers to sanction (through the SHCP) are limited to imposing financial penalties, except that for notaries, public brokers and customs agents it is able to revoke an authorization.

International Co-operation

98. Mexico has a solid legal and institutional framework in place to seek and provide information. Mexico cooperates with many countries, especially the U.S. The international cooperation unit within PGR in the central authority for all incoming and outgoing MLA and extradition requests. The Ministry of Foreign Affairs is also consulted in relation to some MLA and extradition requests. Supervisors, FIU, and LEAs also cooperate with their foreign counterparts on a bilateral basis.

CHAPTER 2. NATIONAL AML/CFT POLICIES AND COORDINATION

Key Findings and Recommended Actions

Key Findings

- The authorities' understanding of ML and TF risks is good but less so with respect to the widespread risk of corruption. The NRA was concluded in 2016 with the involvement of all competent authorities and the private sector. The NRA does not specifically differentiate risks associated with different types of legal persons, although it mentions that using front companies is one of the most widespread ML techniques.
- Two high-level groups were created in November 2016 for the purpose of developing and coordinating the efforts for revising the country's AML/CFT policy. The authorities are in the process of finalising and documenting a comprehensive and coordinated AML/CFT national strategy that addresses the identified ML/TF risks by prioritizing specific actions.
- There is generally good coordination on ML issues between the FIU, PGR, and the supervisors, but less so between LEAs and PGR. Coordination on TF issues is less developed. The challenges for inter-agency cooperation on ML, in particular among LEAs at the federal and state level, hamper Mexico's ability to more effectively tackle ML cases.
- There are no sectors exempted from the AML/CFT requirements, and the authorities have added some VAs that go beyond the standard (e.g., car dealers), which is worth highlighting.
- The financial sector was closely involved in the development of the NRA and informed of its results; DNFBP involvement was more limited. There has been an extensive outreach by the FIU and supervisors to communicate the results of the NRA to reporting entities.

Recommended Actions

- The next NRA should better anticipate emerging trends in predicate offenses and associated ML risks.
- Take steps to ensure that inter-agency cooperation is strengthened, among LEAs at the federal and state level.
- Take steps to ensure that there is a more comprehensive analysis of TF risks and vulnerabilities of certain sectors, products or services, and enhanced communication to concerned agencies to improve their understanding of TF risks.
- Mexico should further revise the vulnerability analysis of some DNFBPs sectors such as notaries, lawyers and accountants.
- Mexico should finalise updating the national strategy and documenting its national policy following the publication of the NRA, in order to coordinate prioritisation of key risks through prevention, avoidance and mitigation measures.
- Mexico should take additional steps to improve the level of DNFBPs awareness of the results of the national assessments of ML/TF.

Immediate Outcome 1 (Risk, Policy and Coordination)

Country's understanding of its ML/TF risks

99. The NRA process has established a basis for the private sector and government agencies to better understand Mexico's ML/TF risks. Where the NRA process has addressed or identified higher threats and vulnerabilities, a consistent national understanding has emerged. Mexico's officials report that a more comprehensive analysis was conducted, underpinning the assessment. For example, the FIU conducted several FI and VA sectorial risk assessments, and there are confidential agency-level risk assessments by key federal LEAs within their area of expertise (e.g. terrorism). In addition, the assessors received other documents describing reviews of ML risk areas that were produced to demonstrate the authorities' understanding of risk (e.g., in the case of corruption).

100. Overall, Mexico has attained a good level of understanding of its ML risks through a risk assessment process that finalized in June 2016. There is a good understanding of ML risks within the FIU, and the financial supervisors, but less so within the SAT which supervises DNFBPs.

101. The Mexican authorities' main focus, as far as TF risks are concerned, is on STRs provided by FIs involving high-risk jurisdictions and the FIU analysis of its database to identify targets (see more under IO.6). For NPOs, in early 2017, the FIU produced a special NPO monitoring program based on a pattern provided by the SAT. A process is executed to identify the characteristics and the TF risk profile and to conduct intensified monitoring of its financial and equity transactions. The FIU is following and analysing new identified TF trends and techniques related to terrorist groups (e.g., ISIL, al Qaeda) published by the FATF. Authorities' views reflected a reasonable understanding of potential TF risk areas in Mexico. Nevertheless, Mexico does not have clear policies to identify or designate terrorist organizations. Competent authorities were not clear on whether some groups operating in the region or conflict zones are considered terrorist organisations in Mexico. This might affect the efforts and distract the focus of competent authorities in order to disrupt TF.

102. Mexico's knowledge of ML risks associated to drug trafficking, in the context of domestic and transnational crime, is particularly well developed. As indicated above, corruption was not identified as a major threat for ML in the NRA, which would not help authorities properly prioritise to address it. Nonetheless, there is also a growing recognition of corruption-related ML risks by the FIU and PGR, including the main channels and methods to launder proceeds of corruption mostly committed in Mexico with layering and integration in and outside Mexico as was shown in some cases—including grand corruption and collusion between organised crime and certain state and municipal high ranking officials (such as the case of Governor Duarte in Veracruz),[33] and the misuse of public funds either by ex-governors or other public servants. Although authorities are aware that corruption of LEAs, in particular at the state and municipality levels, is widespread mainly due to extortion or infiltrated by the OCGs, this was not noted in the report nor highlighted as a vulnerability by the various authorities met during the mission.

[33] "Jose de Cordoba and Juan Montes, "Mexico's States of Corruption—A Vanished Governor and Near-empty Coffers," *Wall Street Journal*, March 14, 2017. Some analysts have identified Veracruz, a thin state along the Gulf of Mexico, as a case study of corruption and the growing influence of the drug cartels and criminal organizations. Former Governor Javier Duarte (2010–2016) became a fugitive in early 2016 after possibly defrauding the state of some USD 2.5 billion for his own enrichment. For a discussion on corruption in law enforcement, the military and the political high office with links to organize crime groups, see Beittel (2017), Organised Crime and Drug Trafficking Organizations, CRS Report for Congress, R41576

103. Overall, the NRA relies on many sources of information, but more weight in the analysis and understanding of authorities was given to the FIU information. Nevertheless, the analysis of the regulatory framework and investigation of ML/TF cases was mostly based on information provided by supervisory authorities, and LEAs and the judicial branch, respectively. The approach taken by the financial supervisors to assessing risk differs slightly from the basis used in preparing the NRA (which draws heavily on information available to the FIU), but the conclusions are broadly similar and consistent. In all cases, the risk models adopted by the respective supervisors benefit from significant input from the FIU, resulting from its analysis of the quality and content of the STRs and CTRs that have been submitted. With regard to the DNFBPs, the NRA's findings do not appear reasonable in rating notaries and professionals, who are highly exposed to risks associated with misuse of legal persons, as low risk. The SAT tends to take a more limited view of ML/TF risks than others, and does not appear to understand that the nation-wide ML/TF risks identified in the NRA might impact particularly the DNFBP sectors.

104. Mexico also has a good understanding of the significant threats it faces from various sources (e.g., drug trafficking, organised crime, tax evasion, human trafficking, extortion, oil theft, and arms trafficking). The NRA could also have better anticipated emerging ML risks associated with the large informal economy. The NRA considers as a threat factor the amounts of POC generated abroad and laundered in Mexico. However, it could detail better the estimate of those amounts and the laundering channels. The authorities' understanding of channels used to launder POCs committed abroad is also limited.

National policies to address identified ML/TF risks

105. Mexico has recently established two high-level groups on AML and CFT that seem to act as the main national AML/CFT policy coordination mechanism.[34] Major policy changes that require political endorsement, and/or legislative changes, are tabled at the two high-level groups under the leadership of the FIU and the PGR. Overall, AML/CFT policies, activities, and resource allocations are not sufficiently well-focused on addressing the ML/TF risks through the various public and confidential national and agency-level risk assessments. Some agencies have discussed their strategic plans with the assessors; however, the authorities do not seem to have annual performance goals. Mexico does not have a comprehensive policy in place to prioritize the financial investigation and prosecution of ML as a standalone offense. The component parts—financial intelligence, investigation, prosecution, conviction, and sanctions—are not functioning coherently to mitigate ML risks. While the financial sector supervisors have all developed a reasonable risk-based approach to framing their annual program of on-site inspections, and the inspection procedures are increasingly becoming risk-based, there is little evidence to suggest that SAT has developed a risk-based approach to supervision.

106. The two high-level groups comprise the same agencies that coordinate the implementation of AML/CFT efforts at an operational level, and provide a platform for agencies to share information such as emerging ML/TF threats and trends. The meetings also facilitated AML/CFT policy coordination and implementation across the agencies. The high-level groups introduced some preliminary measures in February 2017 to prioritize actions needed to mitigate the identified

[34] As reflected in the minutes of the February 22, 2017 High level groups on AML/CFT meetings. A document provided by the authorities contains a list of meetings, decrees, workshops, bilateral meetings with the U.S., collaboration agreements, international cooperation on de-risking.

threats and vulnerabilities of the system. Some policy responses were adopted to address current and emerging threats in particular by the FIU, the supervisors, and the PGR.[35] However, the identification of threats and vulnerabilities have not impacted the allocation of resources of competent authorities. Mexican authorities explained this is due to the fact that an independent exercise to develop a comprehensive AML/CFT national strategy is still underway, objectives and policies, which takes into account the conclusion of the NRA and which is about to be finalized. The new AML/CFT national strategy should also prioritize the coordination of the AML/CFT with anti-corruption and tax-evasion policies.

107. Furthermore, the Mexican state has taken concrete actions to promote a thorough coordination between AML and anti-corruption agencies. Legal provisions were enacted to enable the respective authorities to set out that coordination. As part of these legal provisions, the FIU has entered into collaboration agreements with authorities in charge of investigating corruption cases, such as the Federal Ministry of Public Function, the Superior Auditor of the Federation and the Council of the Federal Judicial Branch, that allowed such agencies to build cases on anti-corruption and the laundering of the respective proceeds with information held by such authorities. The authorities have given priority to the investigation of the actual proceeds of corruption, as reflected in the constitutional amendment published in 2015, which created the National Anti-Corruption System precisely to implement on a federal and state level a coordinated action among all relevant authorities with respect to audit of public funds and analysis of information and investigation of corruption cases.

Exemptions, enhanced and simplified measures

108. Mexico does not exempt any activities covered in the standard from AML/CFT requirements. However, financial authorities issued a series of provisions to establish a simplified low transaction banking account identification and monitoring system in order to facilitate the access to the banking system for unbanked population from 2009 to 2011. The low risk deposit accounts are classified, for AML/CFT purposes, into three levels of operation (see criterion 1.8 in the TCA).

109. Level 1 accounts appear to be low risk, because although there are minimal requirements for opening, there are safeguards in place such as the limitation on deposits and balances, as well as the inability to transfer funds, which make these accounts unattractive for ML purposes. Furthermore, the range of transactions that the holders of these accounts may perform is limited. Level 2 and 3 accounts relax the thresholds on deposits and balances but impose increasingly stricter identification requirements. Analysis conducted by the authorities indicated that the average monthly balances of Level 1 and Level 2 accounts were well below the caps. In addition, the FIU has not detected any cases in which Level 1 and 2 accounts have been misused for ML or TF. There has been no analysis on Level 3 accounts. The exemptions seem to be broadly appropriate given the identified ML/TF risks. Mexico does not have clear requirements for properly assessing the risks before allowing simplified measures by FIs categorized as VAs and DNFBPs.

[35] Currently the High Level Groups have approved seven policies or actions. Some of these policies included the establishment of protocols regarding the initiation of parallel investigations related to ML, in particular, when the original investigation is related to the predicate offenses that have more impact and generate the highest amounts of illicit proceeds according to the NRA. In addition, these groups will also present a bill to congress regarding asset forfeiture that will increase the power of administrative authorities in this regard.

110. Mexico identified certain activities that might represent a ML risk and subject certain sectors not covered by the standard to AML/CFT requirements, such as car dealers and art dealers.

111. Mexico introduced some measures to restrict the use of cash in certain circumstances. Justifications should be provided for cash payments above a certain threshold. In addition to the restrictions on receiving USD in the cash payments above, a number of measures were introduced to restrict the use of cash in pesos (e.g., for purchasing real estate and vehicles). Although the surplus of USD has been dramatically reduced over the past years, the NRA shows that the use of Mexican pesos as cash has continued to grow, except in relation to the products and services for which restrictions were established (e.g., purchase/sale of real estate and vehicles, precious metals and stones, etc.).[36]

Operational objectives and activities of competent authorities

112. While the financial sector supervisory authorities broadly agree with the conclusions of the NRA, of which they were a key component, they have each developed their own sector risk assessments, which are based on more substantive and diverse data than that which was used for their relevant sections of the NRA. For the most part, there is an alignment in the conclusions and, therefore, the way in which the supervisory authorities seek to employ their limited resources based on the risk assessments. The situation is not so clear with respect to the SAT.

113. The FIU regularly adapts its policies based on the results of its operational and strategic analysis. It could better align its policy to focus on core functions (receipt, analysis, and dissemination) without investing further in complementary functions it is currently conducting (e.g., blocking accounts, tactical analysis requiring field operations) or envisaging to develop in the future (e.g., financial investigations).

114. LEAs and the PGR should allocate more resources and align their objectives and policies further to pursue ML, parallel investigations related to underlying crimes, and TF.

National coordination and cooperation

115. The recently created High Level Groups on AML and CFT have started to coordinate AML/CFT national policies although there are to date few results to show. There is generally good coordination on ML issues between the FIU and the supervisors, but less so between LEAs and PGR. Coordination on TF issues is far less developed.

116. In Mexico's banking supervision, the law foresees exchange of information, including confidential information, between the SHCP, Banco de México, the CONSAR, the Institute for the Protection of Bank Savings, the National Commission for the Protection of Financial Service Users and the CNBV. Where appropriate, the authorities have entered into MOUs in order to facilitate exchanges.

117. Financial supervisors' annual inspections programs are strengthened thanks to the cooperation between the CNBV and the FIU, and the PGR. In this regard, the information collected by the FIU is relevant for supervisors in order to prepare for an inspection. In particular, the FIU shares a feedback report which facilitates planning the issues that are to be discussed during inspections. Once they are completed, the FIU is informed about the outcomes of the inspections.

[36] See NRA, Table 17 in page 77.

118. The communication channels between the FIU and the supervisors include feedback reports that are made through written communications, information requests and in some cases, controlled access. to the FIU databases. Working level meetings are also held with the various agencies.

Private sector's awareness of risks

119. The authorities have mechanisms in place to ensure that FIs, DNFBPs, and other sectors are aware of the relevant results of the national ML/TF risk assessments. A summary of the NRA, in which the private sector was an active participant, is a public document available on the FIU website. The FIU, along with the CNBV, continue to promote the implementation of requirements on a risk-sensitive basis in line with the standard by having meetings with the top management of the entities, and by participation in training programs, and seminars. Other supervisors are not very proactive in raising awareness of risks to the sectors they oversee. The risk information provided is not customized sufficiently to their respective sectors.

120. All private sector representatives met were aware of and expressed their general agreement on the NRA's findings. However, some DNFBPs' view about the level of risks to which their own sector is exposed is at odds with the NRA findings. This may be attributed to the insufficient involvement of DNFBPs in the process and their general low level of awareness of AML/CFT issues or an attempted excuse not to assume their responsibilities in the fight against ML/TF.

121. The FIU continues to be major vehicle for the authorities and the private sector to share inputs on risks. The FIU is heavily oriented to the depository sector reflecting the significant role of banks as the primary gatekeepers of the financial sector, along with the brokerage firms and the MVTS. It is also the primary distributor of general guidance on AML/CTF matters, including risk management, to the DNFBPs, and works closely with the financial sector supervisors in providing guidance to their respective sectors.

Overall Conclusion on Immediate Outcome 1

122. **Overall, Mexico has achieved a substantial level of effectiveness for IO.1.**

CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

Key Findings and Recommended Actions

Key Findings

Although Mexico is producing good financial intelligence, it does not have a comprehensive policy in place to prioritize the financial investigation and prosecution of ML as a standalone offense. The component parts—financial intelligence, investigation, prosecution, conviction, and sanctions—are not functioning coherently to properly mitigate the ML risks. The number of ML convictions and confiscations is low.

Immediate Outcome 6

- The FIU functions well and produces good operational and strategic analyses that generally serve the PGR in launching ML, and associated predicate crimes investigations. The FIU has the resources and skills to collect and use a wide variety of intelligence and other relevant information to develop analysis and produce good intelligence. Several competent authorities have direct access to the FIU database to support their operational needs.
- However, the FIU's spontaneous disseminations to the PGR relating to ML and underlying offences are generally low. Although the FIU is disseminating different types of intelligence of use for recipient agencies, the financial intelligence is not often appropriately used by the PGR to launch ML/TF investigations and trace assets.
- The weak cash courier declaration system, the weak reporting from DNFBPs, and overall shortcomings in the reporting regime, combined with the lack of availability of BO information impact the FIU's ability to properly analyse and share accurate and timely intelligence.

Immediate Outcome 7

- Until relatively recently, the PGR did not rank the investigation of ML as one of its key priorities. Most of the PGR's efforts are focussed on strengthening the investigation of the threats posed by predicate offenses perpetrated by OCGs (mainly drug trafficking activities) and scant attention is paid to ML.
- Two specialised units (Specialised Unit for the Investigation of Operations Involving Resources of Unlawful Origin and Counterfeiting—UEIORPIFAM, and the Specialised Unit for Financial Analysis—UEAF) have been established to strengthen the investigation and prosecution of ML. However, there are no standard operating procedures describing when a ML investigation should be initiated, with the consequence that these units very rarely open a parallel ML investigation when the competent unit initiates an investigation into the main predicate offences, such as drug trafficking, corruption or organised crime. In addition, the processes and criteria applicable to the prioritization of cases remain unclear and ML is very rarely investigated and prosecuted as a standalone offense.
- The conviction rate is extremely low. The figures reveal a high degree of ineffectiveness in the way in which investigations are initiated (investigations opened without sufficient reasonable

grounds) and in the way in which they are conducted (e.g., deficiencies in investigation methodology, overly-long procedures, lack of internal coordination between the different specialised units at federal and state level and lack of expertise). With respect to investigation methodology, financial information supplied by the FIU is underused and special investigation techniques are rarely employed, which is compounded by the fact that no statutory provision is made for controlled deliveries.

- The shortcomings identified in relation to IO.2 (e.g., the PGR does not often proactively seek assistance through international cooperation mechanisms when the offense has a transnational element) have a negative impact on the investigation of ML.

Immediate Outcome 8

- The POC are not effectively confiscated. Mexico does not have a defined policy to pursue POC, and POC investigations are not part of the overall investigative strategy.
- The FIU has endeavoured to improve timeliness in the application of provisional measures for instrumentalities and proceeds subject to confiscation through the BPL system. However, this has not resulted in improvements in the level of confiscations.
- Technical deficiencies in the cross-border declaration system affect the ability to effectively target and confiscate falsely declared and suspicious cross-border movements of currency.
- Lack of resources, capacity, and expertise limits the ability to successfully prioritize ML and predicated offense investigations and trace and confiscation of POCs. The lack of complete confiscation statistics makes it challenging to assess the extent to which Mexico is successfully pursuing confiscation. However, the available statistics suggest that the number of confiscations is low in absolute terms and relative to Mexico's risk profile

Recommended Actions

Immediate Outcome 6

- The FIU should increase the level of timely spontaneous disseminations of information and intelligence relating to ML and underlying crimes. Further FIU disseminations combined with more proactive action by the PGR will result in an increased number of financial investigations.
- The FIU should increase the number of additional requests of information for the purposes of the FIU's operational analysis and dissemination, especially from DNFBPs.
- In coordination with supervisors, the FIU should further improve its guidance and feedback to reporting entities to enhance the quality of STRs from FIs and the quantity of STRs from the DNFBPs.

Immediate Outcome 7

- The PGR should: (i) prioritize the investigation of ML at both federal and state levels; (ii) ensure that ML is treated as a priority by the units responsible for the investigation and prosecution of the main predicate offences; and (iii) raise awareness of the importance of having recourse to international cooperation tools for the purpose of gathering evidence from other countries and

seizing assets located abroad.

- From an institutional standpoint, the PGR should strengthen internal coordination between its units, at federal and state levels, and to that end establish clearer criteria delimiting their individual competences. In parallel, the PGR should increase the level of specialization of its units, particularly within those dealing with ML.
- From an operational standpoint, the PGR should develop a manual which clearly describes (i) when a ML investigation should be initiated; (ii) the criteria to be applied to prioritize these cases; and (iii) the investigation methodology to be used in order to secure the necessary evidence, making best use of financial information and special investigation techniques.

Immediate Outcome 8

- Mexican authorities should integrate confiscation as a major policy objective within the national AML/CFT policies and strategies.
- Mexico should have as a practice the initiation of parallel financial investigations in accordance with Mexico's ML/TF risks; to that end Mexico should provide training and technical expertise to PGR.
- Mexico should develop internal procedures for cooperation and coordination among PGR, and FIU in order to prioritize investigations that can led to assets subject to confiscation.
- Mexico should fix the technical deficiencies in its declaration system in order to pursue and effectively confiscate target falsely/not declared or disclosed cross-border movements of currency.
- Mexico should consider finalizing and implementing the assets forfeiture legal framework reform to enhance the overall confiscation regime.

123. The relevant Immediate Outcomes considered and assessed in this chapter are IO.6–8. The recommendations relevant for the assessment of effectiveness under this section are R.3, R.4, and R.29–32.

Immediate Outcome 6 (Financial intelligence ML/TF)

Use of financial intelligence and other information

124. The Mexican authorities—especially PGR and LEAs—have comprehensive access to financial intelligence and other relevant information. However, they do not often use this information in financial investigations in order to develop evidence and trace criminal proceeds related to ML, associated predicate offenses and TF. Although the PGR and the SAT have direct access to the wide range of data and intelligence held by the FIU, and are increasingly accessing the information (see **Table 4**. Number of Controlled Access to FIU Informationbelow), financial investigations are often triggered by spontaneous disseminations by the FIU rather than the launch of parallel investigations into ML resulting from the FIU dissemination upon request.

125. The FIU has signed several memorandum of understanding (MOUs) to facilitate a controlled access and use (including conducting queries) of financial intelligence and other information by the

SAT and the PGR. From 2010 to December 2016, the PGR made 4,635 requests for information to the FIU. The number of requests of information decreased considerably from 2014 to 2016 since the PGR got direct access to the FIU's database. Since then, PGR conducted 1322 queries, while the SAT has conducted 16,772 queries through controlled access from 2014 to December 2016. Some specialised agencies do not sufficiently access the FIU database that would allow them to launch ML investigations (see table below).

Table 4. **Number of Controlled Access to FIU Information**

Year	SAT (by number of queries)	PGR (by number of queries)	Requests by Other Concerned Agencies (by number of persons)
2014	8 829	998	10 293
2015	5 890	4	48 908
2016	2 053	320	144 726

Table 5. **Top Requestors of Information From the FIU**

PGR Information Requests							
Authority	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**
Attorney General's Office				1			
Specialized Unit in Financial Analysis						7	6
General Directorate of Regional Control of Writs of Amparo	154	34	5	4	4		
Deputy Attorney General's Office Specialized in the Investigation of Organised Crime (formerly SEIDO);				16	24		
Specialized Unit for Investigation of Thefts, and Vehicle Robberies;	27	48	59	34	18	9	13
Specialized Unit in the Investigation of Crimes against Health	306	383	277	102	17	22	77
Specialized Unit in the Investigation of Crimes related to Kidnapping;	64	92	69	24	13	8	4
Specialized Unit in the Investigation of Transactions with Illicit Proceeds and Currency Falsification or Alteration;	407	546	358	163	116	65	24
Specialized Unit in the Investigation of Terrorism, Collection and Weapon Trafficking;	85	74	97	41	9	3	3
Specialized Unit in the Investigation of the Traffic of Children, People, and Organs;	50	75	97	10	13		4
General Office of Criminal Process Control of Organised Crime			1				
Total	**1104**	**1305**	**1105**	**455**	**252**	**128**	**145**

126. The FIU database accessed by the PGR and the SAT contains a wide range of financial, administrative, and law enforcement information. It contains a high number of STRs and CTRs[37] (please refer to more information under IO.3). Most of the information and data is fully integrated in the FIU database (e.g., STRs, CTRs), while other information is accessed directly (e.g., commercial databases) or indirectly (e.g., Electronic Interbank Payment System (SPEI) Interbank Transfers, Informative Tax Returns F35).

127. Since 2013, the FIU integrated more than 650 million records from sources mentioned under the table below) into its database. Seventy-one (out of 100) sources of information were integrated into its data warehouse. The information is related to around 14 million subjects and is easily accessed and searched. The wide range of information and data provide the FIU with good matching capability and with the capability to quickly identify targets and possible POC.

Table 6. **Information Accessed by the FIU**

Type of Information	Information and Data	Integrated into FIU Database (I), Direct Access (DA), Indirect Access (IA)
Financial information	STRs, CTRs, Cash Couriers	I, DA
	Operations through interbank transfers of the SPEI, information of the national electronic clearing house on interbank operations checks electronic funds transfers and direct debit payments (Cecoban), USD transactions, information collected by the Central Bank of Mexico.	
Tax Information	General data of taxpayers and annual federal tax returns at federal and state levels.	DA
Foreign Trade Information	Yearly information of foreign trade operations, import and exports (SIINCO—taxpayer integral system), information on U.S.–Mexico customs requests (Trade Transparency Unit), consultation for individual import and export requests.	I, DA
Law Enforcement Information	Judicial orders and prison records.	I, IA
Corporate Information	Register of the Ministry of Economy including 30 states containing basic information. The information is not up-to-date and is missing some states (Sistema Integral de Gestión Registral—SIGER, comprehensive registration management system).	DA

[37] The FIU receives STRs, CTRs, including USD CTRs on international funds transfers, transactions with cashiers' checks, total currencies in exchange centres, and cash courier reports.

Type of Information	Information and Data	Integrated into FIU Database (I), Direct Access (DA), Indirect Access (IA)
National Population Registry	National population registry, social security registration, and national institute of transparency, access to information and personal data protection (federal government information related to the directors, contracts, reports, salaries, subsidies, services, concessions and permits).	DA
Information on assets	Information on notarial operations, asset declarations of public officials (declarant), consultation of public officers with administrative penalties (registration system of sanctioned public officers).	I, DA
Immigration information	Information on entries and exits of nationals and foreigners, information on passengers, flights, airlines and payment methods, flight information.	I, IA
Open Sources and specialised software	e.g., world compliance, national statistics including economic and financial information, judicial statistics etc.	DA

128. The FIU and the U.S. FinCEN share STRs and other relevant information on an annual basis or as needed. This is mostly related to cross-border transactions between the two countries that enrich their databases and trigger more cases. Since 2013, the two FIUs shared 138,297 reports that resulted in complementing the investigation of 105 individuals in Mexico.

129. The representatives of the PGR and the SAT met by the assessment team confirmed that the access they have to FIU financial intelligence is very helpful for their investigations. However, there are several impediments to the effective use of financial intelligence and other information to develop evidence and trace criminal proceeds related to ML, associated predicate offenses and TF.

130. The first category of impediments is that some of the information accessed is not always complete or up-to-date (*quality of information*); the second is that the information accessed is not always leading to the launch of ML financial investigations (*use of financial intelligence*), and the third is particularly related to TF cases (*TF Cases*).

131. The *quality* of some *of the information* contained in the FIU database or accessed by the FIU is not always complete. For instance, the FIU does not readily have access to accurate BO information of legal persons and arrangements and the basic information in the commercial register is not always up-to-date (see more under IO.5). Also, the border declaration reports are often related to the smuggling of cash rather than suspicions emanating from the declaration regime (see IO.8 for more information).

132. The quality and quantity of STRs may also be lacking (see IO.4 for more information). Although the reporting of STRs (unusual and 24H suspicious) and threshold reporting improved significantly in recent years through more guidance and feedback to reporting entities mostly banks,

the quality is not always at the expected level for—among others—the following reasons: (i) reporting from non-bank FIs and DNFBPs is still low or poor quality; (ii) the reporting regime is not entirely clear about the distinction between unusual and suspicious; (iii) guidance and feedback is not fully aligned with main ML risks (i.e., no specific guidance on PEPs in relation to proceeds of corruption, or typologies and indicators specific to tax evasion or organised crimes).

133. On the *use of information*, although the PGR and SAT are regularly accessing FIU information (thousands of requests related to tens of thousands of persons), few ML investigations are proactively launched besides those triggered by spontaneous disseminations by the FIU. This is due to that fact that the PGR needs the FIU's explicit consent to prosecute when the shared information is obtained from FIs, and the lack of capacity and proactiveness in launching parallel investigations of the PGR's newly established units.

134. From 2013 to 2016, the PGR made around 1,439 consultations/access to the FIU database that resulted in opening 80 investigations. While 65 are still ongoing, 15 cases have already resulted in 35 arrests, 7 seizures, and 2 convictions.

135. From the successful cases shared with the assessment team, it seems that the financial intelligence is often assisting in tracing criminal proceeds in bank accounts. The FIU has access to a wide range of information, including that held by notaries that allow it to extend the analysis and identify other types of illegal properties and assets (e.g., vehicles, real estate, boats, etc.). The FIU could improve further its capacity to identify assets and property by coordinating further with the SAT to improve the level of reporting from DNFBPs and increase its additional requests to DNFBPs.

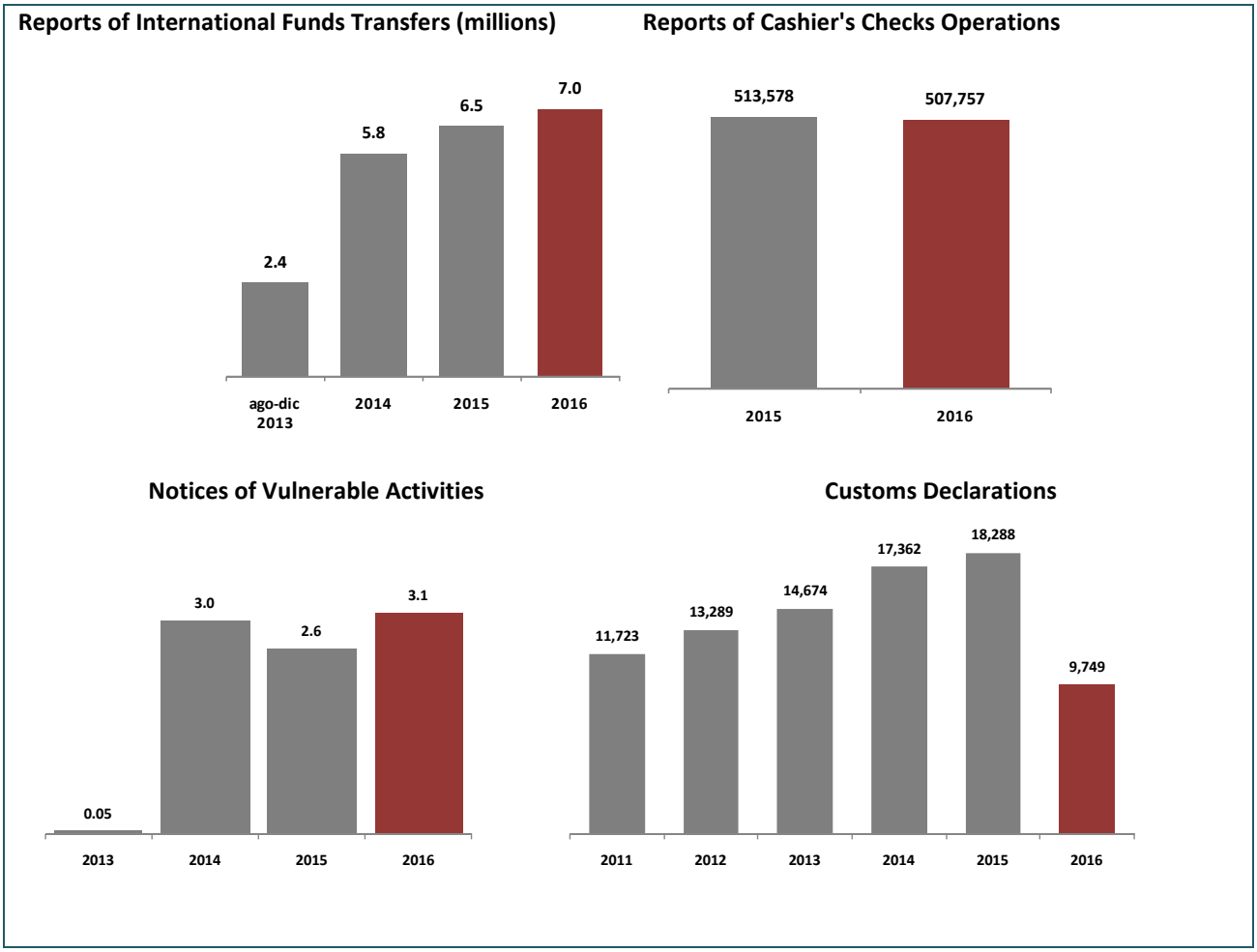
136. Third*, in relation to TF*, few cases have been proactively disseminated by the FIU to the intelligence services. The FIU is proactively analysing patterns and information that it deems suspicious for TF. Conversely, competent authorities including the intelligence services do not seem to proactively access, request, and use FIU information to launch TF investigations. Most of the access with the FIU is related to ML and underlying crimes, but less so in relation to TF.

STRs received and requested by competent authorities

137. Competent authorities make use of STRs and CTRs when spontaneously disseminated by the FIU. The PGR launched some investigations resulting from border declarations. Although many reports contain relevant, accurate and useful information, the quality of reports, although improving, varies across sectors.

138. The amount of information received by the FIU has increased in the last three years. In 2012, the FIU received 12 million reports, while in 2015, the amount had grown to 20.1 million reports (i.e., almost a 68 percent increase).

Figure 2. **Reports Received by the FIU Annually**



139. As indicated above, the FIU provides access to its data to the PGR and the SAT at the federal and state level. From January 2013 to December 2016, the FIU generated 508 responses to requests for information from national authorities, including on transactions from 2,020 natural and legal persons. In accordance with the above, 1,083,783 CTRs were used to respond to requests for information from authorities, 277,921 Notices of VA and 41,898 reports of international transfers, these being the three sources most commonly used to respond to such requests. Other authorities can also request information from the FIU. For instance, the National Electoral Institute (INE) requested information about transaction reports or the history of individuals and companies involved in the electoral process. The FIU has identified two suspicious individuals and 27 legal persons during 2015–2016, which resulted in the cancellation of the registration and other sanctions for such parties.

140. Several areas undermine the reception and request of reports by competent authorities. The information is neither always relevant nor accurate to assist them performing their duties.

141. The FIU has noted a general improvement in quality of FIs' reporting, but smaller firms are facing greater challenges. The authorities had some concerns about the quality of UTRs/STRs across all sectors, notably in relation to transactions analysis. There is little information related to terrorism and TF that was spontaneously sent to the FIU. The FIU conducts its own analysis and receives TF-related information as a result of its own request. UTR/STR reporting by big firms is not always as

prompt as it should be. Reporting by DNFBPs is generally poor in both quantitative and qualitative terms.

142. Deficiencies in CDD requirements (in particular the lack of comprehensive BO requirements) can undermine the usefulness of the reports received and requested by competent authorities. This is particularly important in relation to legal persons and arrangements.

143. The cash couriers reports comprise mostly detected smuggled cash and not reports collected through the declaration regime, since the system is still deficient in many ways. The system is not being implemented evenly across cross check points, and mostly focused on specific entry points (see more information under IO.8). As indicated above, the quality of some information collected and accessed by the FIU could also be enhanced (e.g., basic and BO information of legal persons).

144. The FIU makes requests for additional information from reporting entities—on its own initiative or based on requests from other competent authorities—in order to extend the scope of financial analysis and trace assets. It can also identify additional accounts, assets, or activities from the broad range of reports it receives or collects (e.g., threshold reports, interbank transfers or checks, real estate declared by notaries). However, the number of additional requests to reporting entities is limited, especially as it concerns DNFBPs, particularly when taking into account that the concerned agencies often rely on the FIU to collect the additional information from reporting entities instead of collecting it directly. Processing requests for authorizing such use of the data is also an extra burden on the FIU.

Table 7. **Number of FIU Requests of Additional Information**

REQUEST OF INFORMATION BY SECTOR (FIS & DNFBP'S)			
SECTOR	**2015**	**2016**	**2017**
Banks	112	75	43
Non-banks FIs	5	4	4
Transportation and custody of cash and valuables	15	1	
Notaries	3		2
Lawyers and Accountants	2	1	
Customs Services	3		
Armouring Services	2		
Motor vehicles, aircraft or vessels	1		
Credit and services cards	5	7	1
Donations received by NPO's	1		
Outsourcing		1	
Total	**149**	**89**	**50**

Operational needs supported by FIU analysis and dissemination

145. The FIU's analysis and dissemination support the operational needs of competent authorities whether through spontaneous or upon request disseminations. However, the FIU spontaneous

disseminations are not leading to a sufficient number of financial investigations by the PGR. The FIU's main focus is on disseminating well-documented cases with a high probability of being successfully prosecuted. Spontaneous disseminations—although in limited number—are often used to launch financial investigations and trace assets.

146. In addition, intelligence notes are regularly sent to other domestic and foreign agencies (e.g., the SAT, Ministry of Defence, the civil intelligence agency, Ministry of Marine in Mexico, and the U.S. Office of Foreign Assets Control (OFAC), U.S. Drug Enforcement Agency—DEA, U.S. Immigration and Customs Enforcement—ICE). For instance, 829 subjects were analysed in 2015 and 599 in 2016. On the domestic level, such information sharing with domestic agencies resulted in actions (often outside of investigations of ML). For instance, another FIU product was sent to the National Electoral Institute (in charge of monitoring political party's financing), which resulted in cancellation of the registration of some 121 individuals and companies as national suppliers of the institute. Another FIU program was sent to the Ministry of Energy, and resulted in cancellation of a company's ability to participate in the Ministry's auctions. As indicated under the international cooperation section, many of those intelligence notes resulted in investigations or designations in the U.S.

147. FIU analysis for operational and strategic purposes: The FIU generated a total of 7,473 notes of analysis from January 2013 to December 2016, which include information on 17,094 subjects, 78 percent of the subjects analysed generated notes for internal use, while 22 percent have been analysed for the purpose of being disseminated as intelligence products. The risk assessment models assign a priority level of risk for reported subjects to detect, prevent and report possible ML/TF acts with greater timeliness and efficiency.

Table 8**. Subjects Examined by Risk Assessment Models (Information as of December 2016)**

Person type	Number
Natural persons	13 426.918
Legal entities	711 055

148. The FIU has different models to identify specific risks; first transactions of a subject are evaluated by source of information; with the aim of identifying transactions related to illicit acts within the same data source. In the second instance and from 2016, a model of global risk is executed which includes all reports and notices received by the FIU to detect possible ML.

149. Also, to detect and evaluate potential transactions related to TF or corruption, models have been generated with variables and specific parameters of these crimes. Consequently, it follows that under the Risk Assessment Model, almost 98 percent of subjects reported for suspicious, relevant, and internal transactions are rated from 0 to 5, while 2 percent of subjects reported for suspicious, relevant, and concerning internal transactions have a rating of 5 to 10. Among subjects with risk rating higher than 9.5 in the Risk Assessment Model, 37 natural persons, i.e., 60 percent of analysed subjects were included in requests for prosecution in the BPL or in intelligence notes, while 22 legal persons, i.e., 70 percent of analysed subjects were included in those kinds of products.

Table 9. **Statistics of Lists Monitored by the FIU**

Subject	Number of Lists	Entities registered in the list	Matches identified in the database (exact)	Matches identified in the database (partial)
Designations or inquiries from other authorities	14	541 048	25 130	22 458
UN Resolutions	15	4 394	0	6
Register of VA	11	1 251 541	99 681	21 996
Politically Exposed Persons	4	1 329 747	38 686	198 189
FIU Products	6	25 284	12 489	9 767
Supervision	6	18 249	5 210	1 648
Other authorities	4	76 825	10	7 430

150. The FIU regularly conducts strategic analysis to identify ML/TF trends and methods and share related intelligence reports with reporting entities and concerned agencies. It regularly provides supervisory authorities with analysis of the quality and quantity of reports filed by reporting entities to direct supervisors to the areas of strength and weaknesses.

Table 10. **Sample of Strategic Analysis Studies Conducted by the FIU**

Name	Year	Type
The physical flow of dollars in the Mexican Financial System	2010	Spontaneous
Analysis of cash (USD) transactions in the Mexican Financial System	2010–2016	Spontaneous
Monthly reports on the behaviours of the transactions reports received by the FIU	2010–2016	Spontaneous
Analysis of financial transactions related to requests of prosecution made by the FIU	2012–2014	Spontaneous
Proportion of the vulnerability of ML by state	2012–2016	Spontaneous
Studies of cash transactions related to international transfers of funds	2013–2014	Spontaneous
Analysis of transactions related to the Route of Money typology	2013	Spontaneous
Analysis of cash withdrawals made by public entities	2014–2016	Spontaneous
Effects of tax on cash deposits on the number of cash transaction reports: ex post evaluation	2014	Spontaneous
Monitoring of international transfers related to tax havens	2014–2016	Requested
Text Mining Analysis of ML sentences	2015	Spontaneous
Reports of risk jurisdictions on TF	2014–2016	Spontaneous
Feedback reports of reporting entities	2012–2016	Both
Analysis of UTR related to Central America	2013	Spontaneous
Reports on the behaviour of transactions in various federal entities	2013–2016	Requested
Analysis of UTRs related to various countries of interest	2013	Spontaneous
Descriptive analysis on the behaviour of Notices of VA	2014	Spontaneous

Name	Year	Type
Programs of foreign nationality subjects with UTRs in Mexico	2014	Spontaneous
Programs of subjects of U.S. nationality with UTRs in Mexico	2013–2016	Requested
Analysis of companies with irregularities in the textile sector	2015	Requested
NRA	2016	Spontaneous
Sectoral studies on VA in the financial and non-financial system	2016	Spontaneous
Study on transactions related to Title Insurance Companies in the US	2015–2016	Requested
Transfer transactions detected on the southern border of Mexico	2016	Spontaneous
Report of Panama Papers	2016	Spontaneous
Report of Bahamas Leaks	2016	Spontaneous
Analysis of indicators related to cases of the FIU	2016	Spontaneous
Analysis of transactions related to subjects in the National Registry of Penitentiary Information	2016	Spontaneous
Program FIs proposed for supervision visits	2016	Requested
Analysis of information related to suppliers of governmental entities	2016	Requested
Identification of ML networks in geographical areas based on the strategic analysis of information	2017	Requested
Gas station program	2017	Requested
Analysis of NPOs	2017	Spontaneous

151. FIU disseminations to PGR: From 2013 to June 2016, the FIU disseminated 317 cases with the PGR related to ML constituting an upward trend due to the improvements in the risk assessment models of the reports received, improved analysis procedures, the greater number of sources of information, and improvements in regulatory and legal instruments available to the FIU. An amount of MXN 233 987 million is related to these requests for prosecution. The spontaneous disseminations are mostly related to proceeds of drug crimes and corruption.

152. The largest number of transactions reports used in intelligence products generated by the FIU (excluding programs) correspond to those sent by commercial banks. In total, intelligence products refer or incorporate in the analysis 4.4 million reports generated by this sector, meaning 94 percent of all reports associated with the products concerned. A total of 54,541 STRs have been part of intelligence products. This figure represents 9 percent of all reports of such transactions, received from 2012 and June 2016.

153. The FIU disseminates requests for prosecution to the PGR and other intelligence products to several concerned agencies. The intelligence products are usually in a form of (i) notes: intelligence analysis and diagnostics; (ii) answers to requests for information from national authorities; (iii) answers to requests for information from international authorities; (iv) operations analysis report; and (v) programs: massive analysis of groups of subjects.

Box 1 **ML Investigation Triggered by FIU Dissemination—2014 Best Egmont Case Award**

The collaboration between national and international agencies led to the detection and disruption of a network of 42 shell companies with different lines of business located in Mexico and abroad. The network was created to offer ML services to criminal organizations through a group of independent agents who contacted customers to offer their services, charging a fee of one to five percent. This case was awarded the Best Egmont Case Award in 2014, due to the complexity of the scheme, robust investigation and analysis, and the national and international cooperation to dismantle the network.

The analysis of the case was triggered by the risk model designed in the FIU for prioritization of reports received. A series of STRs were identified that contained high risk elements, such as potential virtual offices that did not match the customer activity, a significant number and amounts of international transfers operated in a short period of time with recipients who had a wide range of economic activities, such as the marketing of textiles, international trade, marketing of cell phones, casinos, air and land freight activities, legal services, all of this not consistent with its stated profiles.

The analysis identified the suspicious companies in the network (42 in total located in Mexico and abroad) that were used to perform various operations and provide financial services to its customers, such as raising funds, many of them in cash, exchanging currencies, sending national or international transfers, among others, which in many cases did not go through the financial sector.

Identifying the beneficial owners of this network was difficult. The company shareholders were low profile employees and not those who really controlled or owned the companies. The coordination with U.S. FinCEN led to the identification of the leader of the network, the 42 companies involved and more than 1,500 individuals who carried out the relevant transactions. The resources were identified to have been scattered mostly through international transfers to more than 42 countries, the main destinations of transfers were the U.S., Panama, Hong Kong, and China.

The FIU dissemination led to the PGR interception of communications of some individuals involved. The leader, 38 of his closest collaborators, and the addresses of two of their operational offices were identified. An arrest warrant was issued on charges of ML and organised crime against the leader of the illicit network and one of his collaborators, who were subsequently imprisoned while the judicial process continued. Thirty-nine bank accounts were secured with a total of USD 13.4 million and two properties. There are no convictions in this case. One property was seized for a value of approximately MXN 6 million

Figure 3. **Number of Requests for ML Prosecution Presented by the FIU**

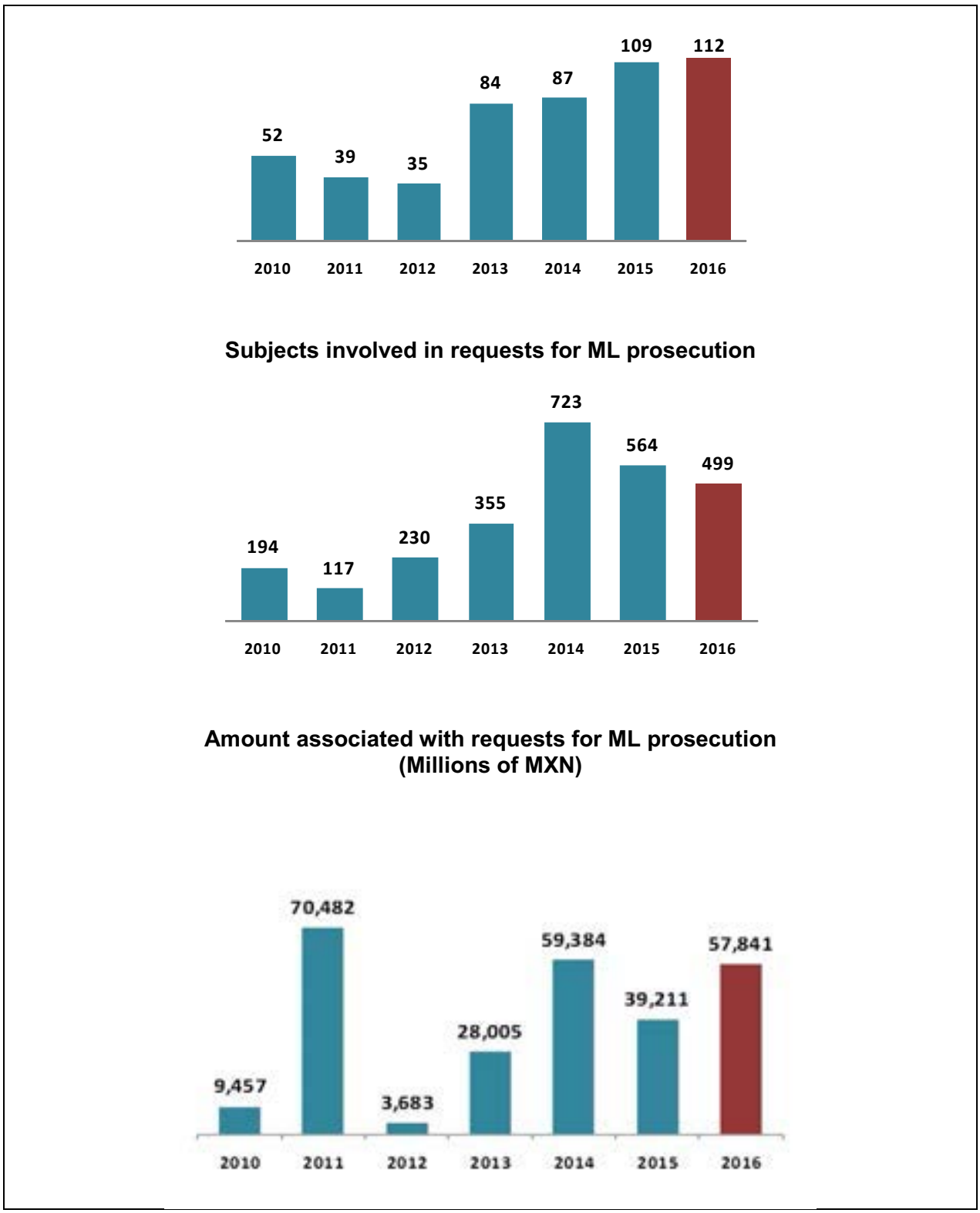


Table 11. **Crimes Identified in the Formulated Requests for Prosecution**

Previous crime	2010	2011	2012	2013	2014	2015	2016
Drug-related crimes	24	11	5	24	29	31	15
Crimes committed by public officials (embezzlement, corruption, bribery)	1	-	-	1	1	7	4
Violation to the General Population Law	4	-	4	4	3	3	0
Extraction and theft of hydrocarbons	1	-	-	4	1		0
Theft / stolen vehicle	-	-	1	2	-	1	0
Kidnapping	-	1	-	1	2	1	1
Extortion	-	-	-	-	1	2	0
Fraud	-	-	-	1	3	5	7
Organised crime	-	-	-	4	3	3	8
Tax offense	-	-	-	7	3	22	40
Undetermined	22	27	25	36	41	34	32
Others*							
Total	**52**	**39**	**35**	**84**	**87**	**109**	**107**

**Crimes related with Credit Institutions Law, Terrorism, Human Trafficking, child corruption and pornography*

Table 12**. Amount Associated with Requests for Prosecution for a Previous Crime**

(MXN million)

Crime	2010	2011	2012	2013	2014	2015	2016
Undetermined	1 163	70 481	3 683	8 018	18 940	9 540	11 968
Organised crime				1 497	27 720	50	22 778
Tax crimes				7 969	12 572	12 076	6 265
Health related crimes	7 946	1		10 506	126	3 948	1 089
Other	349			15	27	13 597	15 742
Total	**9 457**	**70 482**	**3 683**	**28 005**	**59 384**	**39 211**	**57 841**

154. FIU resources: The FIU has in general an adequate budget that tripled from 2010 (MXN 69.6 million) to 2016 (MXN 185 million). While half of the budget is allocated for salaries, the remainder covers several other costs (e.g., premises, IT infrastructure). The number of employees also increased from 138 to 164 in 2015, with a decrease to 146 in 2016. From 2010 until 2016, the FIU received subsidies from the U.S. government to upgrade the IT infrastructure.

155. The FIU support to the operational needs of competent authorities could be enhanced on several fronts, more precisely by improving further its analysis and disseminations in the areas below.

156. The FIU power to block accounts through the LBP for TFS regime related to terrorism and TF was amplified on December 2014 to cover designations of money launderers. This power to block

accounts (but not other property and assets) is often used and could result in tipping-off suspicious persons when the case is disseminated to prosecution. The FIU often uses these powers (and not only in exceptional cases where there is a high probability that the suspicious proceeds will be transferred outside Mexico) which might jeopardize the proper use of intelligence by PRG to effectively trace criminal proceeds related to ML, underlying crimes, and TF. As a result, the PGR could encounter delays in imposing provisional measures. The FIU allocates three full time persons to impose and defend these decisions before the courts (when the FIU is sued) which could otherwise be reallocated to its core functions (receipt, analysis and dissemination of information).

157. The process of analysis of cases sent for prosecution is often slow (see **Table 13.** Analysis process in 2016—Number of working days between reception and dissemination of a case below for year 2016) and requires collecting high volume of data and additional information resulting in a delay in disseminating the intelligence. A large number of cases are also closed without dissemination for lack of suspicion.

Table 13. **Analysis process in 2016—Number of working days between reception and dissemination of a case**

Minimum	3
Average	61
Maximum	213

158. Although most of the disseminated cases lead to successful prosecutions, the number of FIU spontaneous disseminations is very low, especially when compared to the large volume of reports the FIU is receiving. Although the quality is good leading to a vast majority of success prosecution cases, the FIU does not disseminate enough cases to the PGR.

159. In relation to TF, the FIU has analysed and disseminated few TF suspicious cases. However, after investigations were carried out, none of those cases resulted in TF prosecutions. 12 of the 50 individuals are still being monitored by the civil intelligence agency for further intelligence gathering, of which 2 are also being investigated by the U.S. Federal Bureau of Investigation (FBI). The authorities have determined that none of these subjects have met the criteria for designation under UN Security Council Resolution (UNSCR) 1373. The seven persons referred to competent authorities were investigated and had their cases reclassified as ML cases in relation to trafficking of persons by organised crime since no terrorism or TF evidence was found.

Table 14**. FIU TF Cases**

Year	Number of individuals analysed	Number of individuals disseminated to the civil intelligence agency	Disseminated to Immigration	Shared with U.S. FBI	Request for prosecution with PGR
2013	23	6	6		
2014	10	1			
2015	78	23		1	
2016	37	20		1	7
Total	**148**	**50**	**6**	**2**	**7**

Cooperation and exchange of information/financial intelligence

160. The FIU and other competent authorities cooperate, coordinate and exchange financial information to a great extent. Access to financial information is appreciated by PGR and SAT, but has resulted in the launch of few ML investigations. The vast majority of ML investigations and prosecutions have been triggered by the FIU spontaneous disseminations.

161. The FIU has signed several agreements with different domestic authorities to encourage an efficient collaboration and exchange of information. The FIU has evolved from having 10 cooperation agreements signed in 2010 to 24 in 2016. As a result of the coordination between the FIU and the PGR, from 2010 the vast majority of requests for prosecution made by the FIU have resulted in the launching of an investigation. In addition, there are cooperation mechanisms for generating strategic intelligence related to ML, as well as terrorism and its financing. As indicated above, the PGR and SAT have controlled access to the FIU database.

162. The FIU works with other national authorities in the execution of its powers, giving opinions on AML/CFT regarding the subjects with whom authorities such as *Comisión Nacional de Hidrocarburos* and *Comisión Nacional de Seguridad* have a connection. The FIU also issues opinions on AML/CFT for the INE. Similarly, the FIU, through the audit services of SHCP, is subject to a process intended to test computer systems, the network or web application and find vulnerabilities that an attacker could exploit.

163. The cooperation agreements signed with the competent authorities seek to ensure the appropriate use of information, data, documents or images to be shared in the execution of their AML/CTF-related powers. FIU employees are bound as public officials to full secrecy and discretion and could be subject to administrative and criminal responsibilities in case of violation.

164. As indicated above, the FIU and PGR cooperation is sometimes undermined by the regular use of FIU power to block accounts. The FIU disseminates the vast majority of its cases to PGR for prosecution. It also disseminates hundreds of intelligence notes to other agencies. Some of these cases are developed in coordination and cooperation with other agencies, including LEAs. In these cases, the investigations benefit from the analysis of different authorities. Nevertheless, the FIU could consider sending more cases to LEAs for further investigation at an earlier stage rather than holding up the cases for further analysis. In some instances, disseminating cases to LEAs and/or SAT (tax evasion) will allow better gathering of evidence before the prosecution phase. This will also reduce some of the pressure from the FIU that is required to collect additional information and conducting analysis based on PGR requests.

165. Although the coordination and exchange of information is efficient at the federal level, it is less so at the state and community levels. For instance, a state prosecutor or state LEAs cannot access the information with FIs directly and need to request it from the FIU. FIU must first file a complaint in order for a ML prosecution to be brought forward. This could put pressure on the FIU and delay the process of launching prosecutions. The exchange of financial intelligence is not timely enough between state/community and federal levels. Impediments and ineffectiveness are mostly related to the required FIU authorization to prosecute when the financial information is collected from reporting entities, and the overreliance of PGR and LEAs on the FIU to collect the information rather than accessing financial information including CDD using their own powers.

Overall Conclusion on Immediate Outcome 6

166. **Overall, Mexico has achieved a moderate level of effectiveness for IO.6**.

Immediate Outcome 7 (ML investigation and prosecution)

ML identification and investigation

167. Until relatively recently, the PGR did not rank the identification and investigation of ML as one of its key priorities. However, it has taken a number of steps[38] in recent years to remedy this situation, the most significant of which was the creation of specialised units. Nonetheless, ML is not investigated and prosecuted in a proactive and systematic fashion; instead, a reactive, case-by-case, approach is favoured, notwithstanding the fact that some high-profile investigations have recently been conducted. Mexico still lacks the institutional and operational instruments necessary to identify and investigate ML cases. There are various shortcomings in the way in which ML cases are identified and very rarely are parallel financial investigations conducted. Before the PGR can bring a prosecution for ML committed through the financial system, the FIU must first file a complaint in accordance with the last paragraph of Article 400 *bis* Federal Civil Code (CCF). This step is a procedural requirement which must be complied with in order for a ML prosecution to be brought. This could delay the prosecution process and undermine the PGR's powers. The significant level of corruption affecting LEAs, in particular at state level, undermines their capacity to investigate and prosecute serious offences. Lastly, the implementation of the adversarial system poses an additional challenge to the PGR with respect to the investigation of ML.

168. There are two specialised units within the PGR with competence to investigate and prosecute ML. The first is the UEIORPIFAM which is part of the SEIDO. In 2015, this unit's budget was MXN 60 514 325 (USD 2 990 714.10), and it had a staff of 100. The second specialised unit is the UEAF, established in July 2013, which forms part of the PGR and is tasked with conducting financial and accounting analyses of ML transactions as well as ML investigations. The UEAF, as well as federal prosecutors, have the authority to conduct financial investigations in cases where the offence was not perpetrated by an organised crime group. In practice, it is impossible to ascertain the number of investigations in which the UEAF has participated since its creation, as the figures provided by the Mexican authorities vary wildly. In 2015, its budget stood at MXN 765 675 (USD 1 174 706), and it had a staff of 111. The relationship between the UEAF and the UEIORPIFAM remains unclear. In practical terms, it seems that there is some cooperation on a case-by-case basis (Denim, Sonora, and Juarez cases) between the UEAF and UEIORPIFAM.

169. As regards specialised training on the investigation and prosecution of ML, the information provided by the Mexican authorities indicates that, between 2012 and 2017, a total of 25 ML training initiatives were organised, some in cooperation with other countries such as the U.S., France, and Spain. Since 2016, training activities, especially for UEAF staff, have focused on the implementation of the adversarial system, not specifically on ML. As illustrated by the *Informe de la Auditoría Superior de la Federación* (2016 Annual Report of the Federal Audit Office),[39] one of the main shortcomings in the investigation and prosecution of ML is the lack of training. This report

[38] For example, in March 2017, the *Conferencia Nacional de Procuración de Justicia* adopted a resolution to consolidate Mexican criminal legislation into a single comprehensive criminal code of national application.
[39] The report can be accessed at http://informe.asf.gob.mx/Documentos/Auditorias/2016_0106_a.pdf. In particular, see pages 20–22.

specifically recommends that an analysis be conducted of the PGR's training needs and that a capacity-building programme be developed which incorporates regular updates and specialisation.

170. UEAF and UEIORPIFAM operate at federal level, but do not have an equivalent at state level. In addition, at the federal level, despite the existence of the specialised units in question, the PGR's other units are not precluded from conducting investigations into ML deriving from predicate offences. The multiplicity of units responsible for the investigation of ML gives rise to difficulties in terms of coordination and ensuring a harmonised approach, thereby undermining their effectiveness. Moreover, the non-specialised units do not, by their very nature, have the same depth of expertise as the specialised units, with the result that their investigation capacity is not on a par with the latter. In view of the results achieved by the specialised units, especially the UEIORPIFAM, in terms of number of investigations initiated, prosecutions brought, and convictions secured (as we will see below), the financial, human resources, and training allocated to them do not appear to be sufficient.

171. As regards the identification of ML cases, despite there being a standard operating procedure for OC investigations (established in the action protocol entitled "Integration Procedures for Preliminary Inquiries in Organised Crime," updated on November 10, 2011) and a mandatory internal procedure for ML, neither of them lays down the criteria describing when a ML investigation should be initiated. The mandatory internal procedure only lists the different investigation measures to be taken in the course of an investigation that has already been opened. Furthermore, there is no appropriate protocol[40] for the Federal Police which identifies the circumstances under which an ML investigation should be initiated where a preliminary inquiry has begun into a predicate offense and there are reasonable grounds to believe that that offense has generated illicit proceeds. The lack of such a protocol has resulted in a very low number of ML investigations deriving from predicate offenses.

172. As **Table 15** below demonstrates, the PGR's accords far more priority to the investigation of predicate offenses and scant attention is paid to ML. Based on the information provided by the Mexican authorities, where there are grounds to believe that a predicate offense has been perpetrated, the PGR will initiate an investigation and will prosecute both offenses together. The figures, however, tell a different story. **Table 15** shows that there is an enormous difference between, on the one hand, the number of preliminary investigations into corruption, offenses against the federal tax code and offenses perpetrated by OCGs and, on the other, those initiated for ML offenses. It can be inferred that when the competent unit initiates an investigation into corruption or OC, the UEIORPIFAM or UEAF very rarely opens a parallel ML investigation. This suggests a possible lack of coordination between these units or even that the units in question are not aware of the predicate investigation.

[40] After the on-site visit, the Mexican authorities adopted a protocol setting out the duties of the different actors (prosecutors, police, experts, the FIU) involved in the investigation of ML.

Table 15. **Preliminary Investigations Initiated at Federal Level**

Offenses in respect of which investigation was initiated	2012	2013	2014	2015	2016
Drug trafficking*	-	-	-	8 205	2 173
Corruption	3 755	3 065	4 410	3 810	1 702
Tax offenses	7 568	2 418	1 798	1 573	455
Organised crime	2 270	1 302	1 299	1 057	-
ML	531	464	415	426	178

* One comment must be made on the figures for drug trafficking: various sets of statistics purporting to relate to preliminary investigations initiated into drug trafficking were provided but differ drastically from one set to the next. In view of the unreliable nature of these figures, they could not be usefully considered and were omitted from the above table.

173. The PGR (see **Table 16**. Comparative Table Showing the Origin of ML Investigation**s**16) appears to identify most ML cases from information sent by different national authorities (such as customs or the Federal Police) and foreign authorities (almost entirely with U.S. agencies e.g., DEA/ ICE), and, to a lesser extent from FIU disseminations. The FIU's role in the identification of ML cases has increased in recent years.

Table 16**. Comparative Table Showing the Origin of ML Investigation**s

	2012	2013	2014	2015	2016
Total ML investigations*	531	464	415	426	438
ML investigations triggered by various sources (customs, federal police, foreign authorities)	129	124	105	148	198
ML investigations triggered by the FIU disseminations	35	84	87	109	37

* The authorities did not identify the origin of the other remaining investigations.

174. In common with the identification of ML cases, the prioritisation of ML cases also suffers from a lack of clear criteria. It is not possible to ascertain whether priority is given to ML investigations over other investigations, to complex over simple cases, or to domestic over foreign predicate offenses.

175. As regards the actual conduct of ML investigations, it was not possible to determine how the different specialised units coordinate their efforts internally within SEIDO (no examples were provided), how the PGR coordinates work at the federal and state level, or how it coordinates with other authorities such as the customs and tax authorities in the investigation of ML offenses, if at all.

176. The table below clearly shows that, between 2010 and 2014, the number of prosecutions (*consignaciones*) was very low compared with the number of investigations initiated (*averiguaciones previas*) (25 percent). The figures reveal a high degree of ineffectiveness either in the way in which investigations are initiated (investigations opened without sufficient reasonable grounds) or in the way in which they are conducted (e.g., deficiencies in investigation methodology or in the financial investigation, overly long procedures, or lack of internal coordination at the federal and state level).

Table 17. **Figures on ML investigations and prosecutions***

	2010	2011	2012	2013	2014	2015	2016
Investigations initiated	461	479	531	464	415	426	438
Investigations leading to prosecutions	115	108	145	111	109	76	43

* One comment must be made on these figures: since the different sets of figures provided for the number of investigations initiated in 2015 and 2016 were significantly different, they could not be usefully considered and were excluded from the table.

177. The investigation cycle used by the Mexican authorities does not permit any conclusions to be drawn as to how long investigations usually last before a case is brought to trial. Nor is it possible to ascertain the time required for specific individual investigation measures such as (i) identifying the holders of bank accounts; (ii) obtaining information from public registries; or (iii) gathering information on BO where legal persons are under investigation. In addition, the only special investigative techniques that seems to be used in the investigation of ML is wiretapping. No specific examples were provided of cases in which undercover agents or controlled deliveries were used. The deficiencies noted in connection with R.31, i.e., lack of regulation of controlled deliveries, have a negative impact on effectiveness in the investigation of complex cases.

Box 2. **Implementation of the Adversarial System**

One of the main challenges at present for the AML/CFT criminal justice system arises from the changes made to criminal procedure to implement the switchover from the inquisitorial system to the adversarial system. The new system[41] establishes a set of procedures for trying cases, which allow both the prosecutor and the defense attorney for the accused to present evidence and arguments as equal parties before an impartial and independent court, as well as other changes that further protect the rights of the accused and allow for more timely processing of criminal cases. The reforms were implemented progressively at state level. Transition to this system has required a major effort and substantial resources to convert court facilities, upgrade technology and train judicial system personnel. Since 2008, the Mexican federal government has spent roughly USD 3 billion to support state governments' efforts to transition to the new system. As of June 18, 2016, the adversarial system had been implemented in all 32 offices of the PGR. Some states transitioned to oral adversarial criminal procedures only for some categories of crimes, while other categories of crime may still fall under the traditional system. As regards investigations and prosecutions, under the new system, prosecutors will have greater discretion to prioritise their caseloads and may decide not to investigate or prosecute in some cases that appear to have little importance; this will purportedly allow them to direct departmental resources towards other strategic priorities.

The PGR has taken significant steps in order to adapt its institutional structure (with a view to being an autonomous institution), its specialised units and its operational skills to the challenges posed by this new criminal procedural system, providing specialised training to prosecutors (including on litigation technique). However, the impact of these measures cannot be assessed at present.

[41] Rodríguez-Ferreira, O. and D. Shirk (2015) Criminal procedure reform in Mexico 2010-2016. The final countdown for implementation", University of San Diego

Consistency of ML investigations and prosecutions with threats, risk profile and national AML/CFT policies.

178. So far as concerns the consistency of ML investigations and prosecutions with national threats, the main asset-generating activities in Mexico are organised crime[42], drug trafficking, corruption and tax offenses. Organised crime poses a very high ML threat in Mexico. Although the Mexican authorities have gone to great lengths to dismantle the major criminal organizations operating in the country,[43] a significant number are still in place due to their capacity to alter their financial structure and adapt to new scenarios. Some OCGs are in a position of such power that they are able to bribe or intimidate the authorities, particularly at state and local levels and, to a lesser extent, at the federal level. The proceeds of drug trafficking and production are still considered to be the principal source of funds for ML in Mexico. However, due to criminal organizations' ability to diversify, illicit funds also originate from other offenses, such as corruption, extortion, kidnapping, human trafficking, and the theft of oil-based products and minerals. Tax evasion also constitutes an important ML threat and is widespread in Mexico. Due to shortcomings in the justice system, such as the length of proceedings, the low number of investigations and corruption, the conviction rate for this offense is low.

179. Responsibility for the investigation and prosecution of drug trafficking, corruption, and tax offences lies with three specialised units, two of which are within the PGR. The first is the Specialised Unit for Investigations into Crimes Against Health within SEIDO, which investigates and prosecutes drug trafficking perpetrated by OCGs. The second is the Specialised Prosecution Office on Corruption (FADC), not part of SEIDO, which has responsibility for corruption. It is not clear whether the FADC is able to conduct financial investigations in order to identify and trace assets. However, it seems that the FADC may request assistance from UEAF in order to conduct financial investigations, although no examples were provided of this. The third is the Federal Fiscal Attorney's Office (*Procuraduría Fiscal Federal*) within the SHCP), which is responsible, inter alia, for conducting investigations and prosecutions relating to tax offenses. As for organised crime, SEIDO within the PGR groups together the different specialised units with competence to investigate offenses committed by OCGs. Faced with these challenges, LEAs and, in particular, the PGR have prioritised their resources in order to tackle OCGs, especially to address the problem of drug trafficking.

180. To that end, as described above (see paragraph 173), a standard operating procedure ("Integration Procedures for Preliminary Inquiries in Organised Crime") applies to ensure a common approach to the investigation of OCGs. In order to improve the effectiveness of investigations and prosecutions targeting corruption, the PGR has established an ad hoc unit (FADC), which is independent of SEIDO. Both the existence of the standard operating procedure and the specialised units enhance Mexico's ability to disrupt criminal networks.

181. That being said, with respect to corruption,[44] the ratio of prosecutions to investigations is extremely low, as is the ratio of convictions to prosecutions (see **Table 18** below). Between 2013

[42] Statistics were requested, but not received, on the number of investigations, prosecution and convictions relating to organised crime.

[43] 107 out of 122 of the most important leaders of OCG identified at the beginning of the country's current government have either been arrested or killed while being arrested.

[44] The Mexican authorities have taken steps to address some high-profile corruptions cases, such as the case of Governor Duarte in Veracruz. As a consequence of that investigation, 19 properties were seized in Mexico together with one boat, gas stations, artwork, and paintings, and 32 properties located abroad. More than MXN 400 million (USD 20 million) of public

and 2016, only 2.9 percent of prosecutions ended in conviction. In addition, a 2015 study on corruption[45] indicates that only seven prosecutions/investigations were initiated out of a total of 444 disseminations (1.6 percent) made by the *Auditoria Superior de la Federación*[46] between 1998 and 2012. These figures suggest an extremely low level of effectiveness in action to combat this offence.

Table 18. **Corruption Cases**

	2013	2014	2015	2016	TOTAL
Investigations initiated	3 065	4 410	3 810	1 702	12 987
Prosecutions	492	502	397	353	1 744
Convictions	10	11	17	13	51

182. This trend (low prosecution and conviction rates) is repeated with respect to tax evasion. Over the same period, a total of 6,244 investigations initiated, but only 2,976 prosecutions were brought resulting in only 879 convictions. Also worthy of note is the sharp fall in the number of investigations initiated between 2013 and 2016, as well as in the number of convictions secured, which fell by more than half.

Table 19**. Tax Evasion Cases**

	2013	2014	2015	2016	TOTAL
Investigations initiated	2,418	1,798	1,573	455	6,244
Prosecutions	1,235	747	691	303	2,976
Convictions	326	222	213	118	879

183. Based on the information provided, it cannot be affirmed that, in general terms, ML investigations and prosecutions are consistent with ML threats.

Types of ML cases prosecuted and convicted

184. With respect to the type of ML cases pursued, an analysis of judicial decisions[47] (both convictions and acquittals) shows that most ML charges relate to concealment (22 percent), transport (15 percent) and custody (15 percent). Administration (5 percent), transfer (3 percent), and deposit (2 percent) account for a smaller proportion of ML charges. The remaining 38 percent of ML charges were not assigned any specific method of commission. The figures provided in this analysis also show that 62 percent of all ML charges were filed in the context of OC and 42 percent in the context of drug trafficking. In addition, information from the FIU was requested only in 16percent of the convictions.

funds from the State of Veracruz, which had been invested in legal persons, were recovered. See www.gob.mx/pgr/prensa/recupera-pgr-421-millones-en-favor-del-estado-de-veracruz-comunicado-1921-16

[45] Amparo-Casar, Maria (2015) *Anatomía de la corrupción*"; *Centro de Investigación y Docencia Economica (CIDE) e Instituto Mexicano para la competitividad* (IMCO), May 2015.

[46] Body responsible for exercising administrative and financial oversight.

[47] See paragraph 615 on pages 230–231 of the NRA.

185. The Mexican authorities state that ML can be prosecuted as an autonomous offense, irrespective of the existence of a previous conviction for a predicate offense. However, the analysis of these figures suggests that ML is very rarely prosecuted as a standalone offense (see **Table 20** below).

Table 20. **Types of ML Cases Prosecuted**

	2013	2014	2015	2016	TOTAL
Number of ML prosecutions	111	109	76	43	339
Number of prosecutions for ML as an autonomous offence	8	10	2	16	36
Number of prosecutions for self-laundering	5	10	2	4	21

186. With respect to convictions, despite the fact that the authorities provided differing sets of figures on multiple occasions, the overall trend is clear: there is a huge disparity between the number of prosecutions and the number of convictions ultimately secured with the result that the conviction rate is extremely low. According to the NRA, the ML conviction rate between 2010 and 2014 fell from 20 percent to 5 percent. Other figures provided by the Mexican authorities,[48] set out in Table 21 below, suggest conviction rates of 36 percent, 21 percent, 44 percent, and 13 percent for 2013, 2014, 2015, and 2016, respectively, based on very few prosecutions. In any event, the figures clearly call in question the effectiveness of prosecutions. In addition, the Mexican authorities themselves also stated that the low conviction rate posed a high risk to the effectiveness of the criminal justice system. As regards legal persons, Mexico has never prosecuted or convicted a legal person of ML due to the fact that, until recently (June 2016), legal persons could not be prosecuted for ML

Table 21. **Figures on ML prosecutions and convictions** [49]

	2010	2011	2012	2013	2014	2015	2016
Number of prosecutions	115	108	145	111	109	76	43
Number of convictions				40	23	34	6
Number of convicted persons	12	19	19	17	11	15	10

187. On a final note, it should be noted that the abovementioned *Informe de la Auditoría Superior de la Federación* (2016 Annual Report of the Federal Audit Office) concludes that, in 2016, the PGR made no progress in the prosecution of financial crime. In particular, of the 98 prosecutions involving financial crime (which covers ML), only 3 percent resulted in judgment (compared with 22 percent in 2013) while 58 percent were returned to the PGR for completion of the investigation.[50]

[48] Information provided by the *Consejo de la Judicatura Federal* (Council of the Federal Judiciary).
[49] One comment must be made on these figures: it is not clear why the number of convictions is higher than the number of persons convicted between 2013 and 2016.
[50] See pages 13 and 25 of the report.

Effectiveness, proportionality and dissuasiveness of sanctions

188. Concerning the effectiveness, proportionality and dissuasiveness of sanctions, Article 400 *bis Código Penal Federal* (CPF) provides that natural persons are liable to imprisonment of between 5 and 15 years and a fine of between 1 000 and 5 000 days at the stipulated daily rate (*día multa*)[51] upon conviction for ML. From the analysis of the convictions on ML, while most fall within the lower end of the penalty scale, based on the nature of the offending, it appears that ML sanctions following a conviction are effective, dissuasive and proportionate.

Alternative measures

189. As regards the extent to which criminal justice measures can be applied when a conviction cannot be secured, the Mexican authorities refer to the possibility of applying the discretionary prosecution principle (*principio de oportunidad*) whereby a prosecutor may decide not to prosecute a case if compensation has been given or guaranteed to the victim. However, the very relevance of this principle is questionable since it covers the situation where the prosecutor decides not to proceed, not where a conviction cannot be secured. In addition, there are no cases to illustrate the practical application of this principle in ML investigations.

190. **Mexico has achieved a low level of effectiveness for IO.7.**

Immediate Outcome 8 (Confiscation)

191. Mexico has an appropriate legal framework to support both criminal and civil (non-criminal based) proceedings to confiscate property and POC. Property and proceeds seized, abandoned and confiscated are managed by the Public Sector Assets Management and Disposal Service (SAE). Since the last assessment, the volume of seized and confiscated assets has slightly increased, however these efforts fall short and are not commensurate with Mexico's risk profile.

Confiscation of proceeds, instrumentalities and property of equivalent value as a policy objective

192. Confiscation of criminal POC, instrumentalities, and property of equivalent value is not being pursued as a policy objective. Recently, following the completion of the NRA, the High Level Groups approved seven policies, including one for "establishing protocols regarding the initiation of parallel investigations related to ML, in particular when the original investigation is related to the predicate offenses that have more impact and generate the highest amounts of illicit proceeds according to the NRA." It is expected that this policy will have a positive impact on the volume of confiscations, however, it is too early to determine how much of an effect it is having.

193. PGR, who is assisted by Federal Police, has not given priority to parallel financial investigations to trace assets. No information on the application of confiscation of property of equivalent value was provided.

194. Mexico has various tools—both criminal and administrative—to seize and freeze criminal proceeds and instrumentalities subject to confiscation. In terms of criminal seizures, as indicated

[51] This type of fine is calculated by multiplying the daily rate by the number of fine days. The daily rate is set according to the income of the offender.

under IO.7, the PGR has not developed a strategy to prioritise investigations in order to follow the money, and take actions to locate and restrain illegal assets that might be subject to confiscation.

195. Most of the ML investigations are triggered by the FIU and are not the result of parallel financial investigations, which means that the authorities are not proactive in tracing illegal assets generated by investigation of predicate offenses. This mainly due to be a lack of capacity and expertise to conduct financial investigations by the competent authorities (see IO.7).

196. As explained in IO.7, ML investigations are pursued by the UEIORPIFAM within SEIDO and the UEAF. In the case of the UEIORPIFAM, the main focus has been OC, in particular activities related to drug trafficking.

197. The number of convictions decreased between 2013 and 2016 (see IO.7). Only a few of the convictions resulted in confiscation. The authorities provided some 35 successful cases, of which only 3 resulted in confiscation. The low volume of confiscation is mostly due to the reluctance of the judiciary to confiscate where there is weak evidence on whether the seized assets can be associated to the conviction.

198. The PGR has seized USD 1.3 billion, pursuant to 119 ML investigations. However, there has been only USD 934 965.40 confiscated in relation to ML so far. This clearly indicates that there is a low number of confiscations relating to ML. These limited results are mainly due to deficiencies identified under IO.7 (e.g., deficiencies in investigation methodology, overly long judicial procedures, and lack of internal coordination).

199. The abandonment lies in that the competent authority performs a seizure and subsequently, over time, the rightful owner fails to make the claim conducive to his/her right. The volume of abandoned assets is slightly higher. However, the ratio of assets recovered from seized abandonments is generally low (USD 7 943 369.62 which is only 0.61 percent of overall assets seized). This is mainly due to the fact that there are few persons that claim abandoned property which result in the loss of right in rem, and consequently, it is resolved that the assured property will be applied in benefit for the state.

200. In December 2014, the FIU initiated the administrative freezing/blocking of accounts held by FIs of listed persons (i.e., the BPL), who have been identified by competent authorities for suspicion of TF, ML or related offenses. The BPL is designed to be a temporary measure to prevent capital flight and allow sufficient time for the application of provisional measures by the PGR. Although freezing actions are periodically challenged, assets typically remain frozen while the investigations are ongoing. The regular use of such measures which is focused mainly on bank accounts may tip-off the listed persons and lead to the liquidation and flight of other potential illegal assets as the PGR does not appear to be proactively pursuing following the FIU freezing actions.

201. According to the FIU, some 2,056 accounts at FIs have been frozen, of which 2,020 were bank accounts. Thus far, the designations on the BLP have mostly been related to drug trafficking, corruption, OCG and tax crimes.

Table 22. **BPL and Frozen Assets by FIs**

	2014	2015	2016	Total
Natural persons				
# designated	71	208	330	609
Amount of assets frozen MXN (mill)	177.7	157.2	1 337.1	1 672.1
Amount of assets frozen USD (mill)	4.9	1.0	12.1	18.0
Total (Mill)	**14.50**	**9.49**	**84.33**	**108.32**
Legal persons				
# designated	116	312	410	838
Amount of assets frozen MXN (mill)	156.1	215.0	689.1	1 060.2
Amount of assets frozen USD (mill)	0.0	0.8	8.8	9.6
Total USD (Mill)	8.34	12.30	45.63	66.26
Total USD (Mill)	**22.84**	**21.78**	**129.96**	**174.58**
Nationals				
# designated	164	519	722	1,405
Amount of assets frozen MXN (mill)	333.2	372.3	2 026.3	2 731.8
Amount of assets frozen USD (mill)	4.9	1.7	20.9	27.6
Foreign				
# designated	23	1	18	42
Amount of assets frozen MXN (mill)	0.6	0	0	0.6
Amount of assets frozen USD (mill)	0	0	0	0

202. According to the table above 1 447 natural and legal persons have been designated and approximately USD 175 million has been frozen. The FIU has sent to the PGR 166 requests for prosecution after blocking accounts over last three years and the PGR has pursued only four prosecutions. The FIU has also worked with the U.S. OFAC that resulted in the listing of 98 persons.

Table 23. **Amount of assets seized by PGR based on the BPL system**

	2014	2015	2016	Total
USD (mill)	3.98	0.9	0.27	5.17
MXN (mill)	248.37	233.16	595.77	1 077.30
Total USD (mill)	17.4	13.5	32.5	63.4

203. According to the FIU, USD 63.4 have been seized by the PGR. No information was provided on whether the freezing of accounts by the FIU have facilitated final confiscations (or abandonments/forfeiture).

204. Civil asset forfeiture was introduced in 2008, however, it has not been used actively. Some authorities assert that is mainly due to restrictions in the scope of application to only certain offenses (ML offenses are not included). However, other authorities have indicated that it may be due to the lack of capacity of prosecutors. Nevertheless, the authorities indicated that they have been preparing amendments to the Constitution to expand the scope of the assets forfeiture to include ML.[52]

205. The SAE manages seized asset via criminal processes and civil forfeiture. The authorities indicated difficulties to effectively manage seized assets owing to the lack of authority to sell seized assets whose value may deteriorate prior to a final confiscation order. The authorities have indicated that a protocol regarding the sale of such assets has been recently approved.

Confiscations of proceeds from foreign and domestic predicates, and proceeds located abroad

206. Confiscation of proceeds from foreign and domestic predicates, and proceeds located abroad is achieved to only a limited extent. As explained in IO.7, ML investigations are pursued by UEIORPIFAM within SEIDO and the UEAF. In the case of UEIORPIFAM, the main focus has been OC, in particular activities related to drug trafficking. UEIORPIFAM provided information on ML seizures, confiscations and abandonments (see below).

207. The UEAF provided statistics of seizures for predicate offenses and ML offenses investigations.

Table 24. **ML and Predicate Offenses Seizures - UEAF**

	2014	2015	2016	Total
ML seizures				
Cash	3 560 951	3 241 000	7 234 477	14 036 428
Assets	0	4,855	48	4 903
Estimated value	0	395 675 860	395 675 860	791 351 720
Total MXN*	192 380	398 921 715	402 910 385	802 024 480
Total approx. in USD	10 393	21 551 686	21 767 174	43 329 253
ML seizures resulting from predicate offense				
Cash	290 190	9 089 702	42 351 886	51 731 778
Assets	0	0	27	27
Estimated value	0	0	474 150 742	474 150 742
Total MXN*	290 190	9 089 702	516 502 655	525 882 547
Total approx. in USD	15 677.47	49 1069.80	27 903 979.20	28 410 726.47
Total final in USD	**26 070.76**	**22 042 756.2**	**49 671 152.89**	**71 739 979.84**

* Cash and estimated values of assets were provided in Mexican pesos—MXN (1 USD = 18.51 approx.)

[52] In March 30, 2017 a draft initiative was presented to reform Art. 20 of the Constitution regarding Forfeiture. Currently the draft initiative has passed the stage of First reading opinion/Declaration of publicity (April 28, 2017).

208. The UEAF has seized USD 71 739 979.84 approximately. However, only has been possible the confiscation of MXN 1 890 000.00 (approximately USD 102 106.97) derived from only one case in 2016, (confiscation was granted in 2017), indicating the difficulties of the authorities to secure confiscations.

209. The UEAF requested the confiscation of cash derived from on case in 2016, for a total of MXN 1 890 000, which was granted in 2017.

210. In addition, the different units of the PGR provided statistics of seizures of cash and physical property:

Table 25. **Seizures by Different PGR Units**.

	2013	2014	2015	2016	Total
Specialised unit on investigation of assault and vehicle recovery					
Cash total USD*	0	496 282.31	226 167.28	512 980.36	1 235 429.95
# Real Estate	5	4	11	61	81
# Vehicles**	79	340	140	357	916
# Others***	151	836	267	4361	5615
# Total assets	**235**	**1 180**	**418**	**4 779**	**6 612**
Total USD	**0**	**496 282.31**	**226 167.28**	**512 980.36**	**1 235 429.95**
Specialised unit on investigation into crimes against the health					
Cash total USD*	895 219.31	10 249 475.80	9 174 796.53	1 815 158.16	22 134 649.80
# Real Estate	19	69	162	106	356.00
# Vehicles**	161	293	373	273	1 100.00
# Others***	254	1 249	580	4 885	6 968.00
Total USD	**895 219.315**	**10 249 475.8**	**9 174 796.53**	**1 815 158.16**	**22 134 649.8**
#Total assets	**434**	**1 611**	**1 115**	**5 264**	**8 424**
Specialised unit on investigation of transactions with resources of illicit proceed and falsification or alteration of currency (UEIORPIFAM)					
Cash total USD*	28 237 329.8	122 303 054.16	17 059 175.18	14 849 235.44	182 448 794.6
Real Estate value	4 838,573.7	517 225.45	8 722 896.54	1 650 729.34	15 729 425.1
Vehicles value**	299 566.99	1 077 564167.42	1 818 691.79	60 420.58	1 079 742 846.8
Others value***	54 513 357.2	15 588.49	856 052.40	130 672.99	55 515 671.0
Total USD	**87 888 827.7**	**1 200 400 035.5**	**28 456 815.9**	**16 691 058.3**	**1 333 436 737.5**

	2013	2014	2015	2016	Total
Specialised unit on investigation of terrorism, arms stockpiling and trafficking (UEITA)					
Cash total USD*	2 466 220.79	385 112.70	109 626.22	46 049.12	3 007 008.84
Real Estate value				1 854 889.25	1,854 889.25
Vehicles value**				250 487.03	250 487.03
Others value***				193 735.71	193 735.71
Total USD	**2 466 220.79**	**385 112.70**	**109 626.22**	**2 345 161.12**	**5 306 120.83**
Specialized Unit on Investigation of Child Trafficking, Smuggling of Migrants and Trafficking in Organs					
Cash total USD*	87 371.30	400 776.99	35 307.56	11 392.52	534 848.37
# Real Estate	13	16	14	18	61
# Vehicles**	23	73	57	35	188
# Others***	780	1270	343	1381	3774
# Total assets	**816**	**1359**	**414**	**1434**	**4023**
Total USD	**87 371.30**	**400 776.99**	**35 307.56**	**11 392.52**	**534 848.37**
Specialised Unit on Investigation of Kidnapping					
Cash total USD*	12 371.69	11 700.32	32 519.00	7 928.85	64 519.86
# Real Estate	10	18	28	40	96
# Vehicles**	75	116	87	85	363
# Others***	165	254	506	300	1225
# Total assets	**250**	**388**	**621**	**425**	**1684**
Total USD	**12 371.69**	**11 700.32**	**32 519.00**	**7 928.85**	**64 519.86**
Specialised unit of investigations of federal crimes (SEIDF)					
Cash total USD*	2 783.85	35 236.25	285 995.08	12 561.59	336 576.77
# Real Estate	26	9	32	10	77.00
# Vehicles**	18	24	36	9	87.00
# Others***	4 324 041	10 727 134	17 266 506	6 856 546	39 174 227.00
# Total assets	**4 324 085**	**10 727 167**	**17 266 574**	**6 856 565**	**39 174 391.00**
Total USD	**278 384 657**	**3 523 625 068**	**285 995 084**	**125 615 883**	**3 365 767 693**
Special Prosecutor's Office for Combating Corruption in the Institution					
Cash total USD*	5 405 186 386	6 482 982 172	24 910 859		3 679 902 755

	2013	2014	2015	2016	Total
Vehicles value**		6 482 982 172	24 910 859		3 139 384 117
Others value***	909 832 523				
Total USD	14 50 351 162	1 296 596 434	4 982 171 799	0	6 819 286 872
#Total assets	**4 325 820**	**10 731 705**	**17 269 142**	**6 868 467**	**39 195 134**
Total USD	**90 472 512.9**	**1 201 743 721.1**	**29 197 367.8**	**19 586 346.8**	**1 340 990 850.2**

*Data provided in different currencies (MXN, USD, EUR). The total figures are only expressed in USD (1 USD= 18.51 approx.)
**Vehicles includes cars, chips
***Others include: artwork, furniture, jewels, objects, perceivable goods

211. As per Table 25, several PGR units seized approximately 40 000 physical assets (e.g., aircraft, real estate, vehicles) and only has confiscated 2 473 number of assets (as per table below). However, no information was provided related to the value of those confiscations. From the data provided, it is pretty clear that the number of confiscations is very low when one compare with the seized assets. From USD 1.35 billion of assets seized, only approximately USD 14.5 million have been finally deprived. In addition, no assessment can be made on which types of crimes the authorities are focusing in order to secure confiscations.

Table 26. **Physical Assets Confiscated**

Type of physical assets	2013	2014	2015	2016	Total
Real estate	6	8	11	6	**31**
Aircraft	0	3	0	0	**3**
Trucks	45	46	32	24	**147**
Vehicles	153	177	114	81	**525**
Trailers	15	11	7	2	**35**
Perishable goods	11	6	8	13	**38**
Archaeological goods	0	1	0	0	**1**
Other	402	477	500	314	**1 693**
Total	**632**	**729**	**672**	**440**	**2 473**

212. Authorities have provided statistics of confiscations, abandonments, and forfeitures related to predicate offenses and ML. The number of confiscations mostly related to drug trafficking (forfeiture), other offenses against health (confiscations and abandonment), and ML (confiscations). It is to note that in the case of corruption and tax evasion the results have been very limited. In addition, from the statistics provided, there is no data available to assess whether the authorities are pursuing assets abroad.

Table 27. **Confiscations, Abandonments, and Forfeitures - Predicate Offenses and ML**

	2013	2014	2015	2016	Total
MXN confiscated in criminal cases	$1 018 051.70	$668 894.80	$498 293.00	$200 934.50	$2 386174.00
MXN forfeited	$13 748 000.00	$19 700 890.00	$7 556 720.00	$14 395 087.00	$55 400 697.00
MXN abandoned*	$41 680 765.67	$10 146 671.91	$7 663 483.00	$5 108 134.23	$64 599 054.81
Total in MXN**	$56 446 817.37	$30 516 456.71	$15 718 496.00	$19 704 155.73	$122 38 925.81
Total approx. in USD	**$3 049 530.92**	**$1 648 647.04**	**$849 189.41**	**$1 064 514.09**	**$6 611 881.46**
USD confiscated in criminal cases	$861 287.55	$21 456.00	$583 298.00	$69 059.00	$1 535 100.55
USD forfeited	$0.00	$1 796 583.00	$1 437 478.00	$39 439.00	$3 273 500.00
USD abandoned	$3.00	$0.00	$29.00	$2 591 294.20	$2 591 326.20
Total in USD	**$861 290.55**	**$1 818 039.00**	**$2 020 805.00**	**$2 699 792.20**	**$7 399 926.75**
Euros confiscated in criminal cases	$0.00	$0.00	$0.00	$28 500.00	$28 500.00
Euros forfeited	$0.00	$0.00	$0.00	$0.00	$0.00
Euros abandoned	$0.00	$70 000.00	$0.00	$354 335.00	$424 335.00
Total in EUR***	**$0.00**	**$70 000.00**	**$0.00**	**$382 835.00**	**$452 835.00**
Total approx. in USD	**0**	**$82 352.94**	**0**	**$450 394.12**	$532 747.06
Total in USD	**$3 910 821.47**	**$3 549 038.98**	**$2 869 994.41**	**$4 214 700.40**	**$14 544 555.27**

*The figures of abandonment are the aggregated result of the information provided by the UEIORPIFAM (PGR) and the Council of the Federal Judicature.
**Cash and estimated values of assets were provided in Mexican pesos—MXN (USD 1 = 18.51 approx.)
***Cash and estimated values of assets were provided in euros (USD 1 = 0.85 EUR approx.)

213. The PGR does not pursue complex international ML cases. Only one MLA request was made for the seizing of assets abroad, and Mexico replied to one incoming MLA to seize assets domestically. The authorities are not proactive in seeking assistance for international cooperation in an appropriate and timely manner to pursue ML and associated predicate offenses that have transnational elements, given the lack of capacity to pursue parallel financial investigations and inability to prioritize investigations to trace assets.

Confiscation of falsely or undeclared cross-border transaction of currency/bearer negotiated instrument

214. The amounts referred in Table 28 below are related to seizures resulting from critical incidents (i.e., smuggling) of cash and bearer negotiated instruments (BNIs). However, there is no information on whether they resulted in confiscations.

Table 28. **Relevant and Critical Incidents**

		Number of false declarations detected (ranging from USD 10 000 and 30 000)	Amount detected (ranging from USD 10 000 and 30 000)	Number of false declarations detected greater than USD 30 000	Amount detected (false declarations) and seized for more than USD 30 000 and referred to the PGR	Amounts seized in USD
2014	Entry	110	163 138 215	50	220 124 617	11 892 199
	Exit	86	34 220 010	36	372 885 703	20 145 094
	Other	7	876 865	4	232 483 640	12 559 894
2015	Entry*	121	82 277 952	81	531 070 168	28 690 986
	Exit	73	63 425 532	48	191 645 269	10 353 607
	Other	3	365 100.00	2	8 523 200	4 604 646 137
2016	Entry*	208	123 152 005	71	9 271 486 761	500 890 694
	Exit	144	75 993 256	41	157 891 061	8 530 041
2017 (January – February)	Entry	45	17 980 181	22	3 037 146 943	164 081 412
	Entry	30	11 900 590	7	297 471 797	16 070 869

*Domestic transit, unknown

Table 29. **Critical Incidents by Customs Point**

REPORT	CUSTOMS	2014	2015	2016	2017	TOTAL
CRITIC	TOLUCA	8	70	62	21	161
	GUADALAJARA	28	31	5	1	65
	AICM	18	7	23	1	49
	CANCÚN	14	7	8	0	29
	SONOYTA	8	8	1	0	17
	QUERETARO	5	3	2	1	11
	NUEVO LAREDO	0	1	3	3	7
	TIJUANA	3	1	1	0	5
	CD. REYNOSA	1	1	2	1	5
	MONTERREY	0	0	4	0	4
	PROGRESO	2	0	1	0	3
	MATAMOROS	1	0	0	0	1
	CHIHUAHUA	0	0	0	1	1
	AGUA PRIETA	0	1	0	0	1
	NACO	1	0	0	0	1
	CD. JUÁREZ	0	1	0	0	1
	SAN LUÍS RÍO COLORADO	1	0	0	0	1

215. Serious deficiencies in the legal framework for the monitoring of cross-border movement of currency and BNIs limit the effectiveness of the system. False declaration is not an offense, and the SAT has no power to stop or restrain any currency suspected of being related to ML, underlying crimes, or TF. Although the SAT is seizing smuggled cash and BNIs, no information on the cases conducted by the PGR that could have led to confiscation was provided. However, it is to note that the SAT, through the National Targeting Centre (CPED)**,** has proactively developed an alert system in order to detect atypical conducts and inconsistencies in the passenger's declaration and cargo transportation. Even though the technical limitations mentioned, the SAT has being proactive in providing information to other authorities when an alert is presented. For example, in cases where passengers are exiting Mexico borders and declare currencies of USD 50 000 or more, the authority in the destination country is notified. In addition, information regarding passengers considered high risk based on their declarations is shared among authorities (Federal Police, PGR, INAMI, and Customs), nevertheless concrete results on this type of cooperation are yet to be seen.

Consistency of confiscation results with ML/TF risks and national AML/CFT policies and priorities.

216. Mexico's results on confiscation are limited, and they are not commensurate with ML/TF risks. Although the authorities recently developed a protocol to pursue parallel investigations which might have a positive effect on the volume of confiscation, it has not yet articulated a specific policy at pursuing and confiscating assets to make crime unprofitable and reduce both predicate crimes and ML.

217. Law enforcement actions, including asset recovery efforts focus mostly on predicate offenses (i.e., drug trafficking) perpetrated by OCGs. The recovery of POCs such as corruption and tax evasion are not being actively pursued by the authorities.

218. The lack of uneven data and statistics related to confiscations makes it difficult to determine whether there have been any additional efforts that could reflect Mexico's efforts in depriving criminals from illegal proceeds and confiscate assets related to TF.

Overall Conclusion on Immediate Outcome 8

219. **Mexico has a low level of effectiveness for IO.8.**

CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

Key Findings and Recommended Actions

Key Findings

TF offence (Immediate Outcome 9)

- Mexico has an institutional framework in place to investigate and prosecute TF, with an ad hoc unit, the UEITA. However, the PGR does not have protocols or manuals containing guidelines for the clear identification and prioritization of potential TF cases. Furthermore, it appears that the investigations conducted by the UEITA are investigations based on intelligence gathering by FIU or the civil intelligence agency and never proceed to the next level, being the initiation of a criminal investigation.
- The legal framework is lacking in that TF is not one of the offenses for which legal persons may be held criminally liable.

Targeted financial sanctions related to TF (Immediate Outcome 10) and Targeted financial sanctions related to PF (Immediate Outcome 11)

- Mexico only has one case to demonstrate effective implementation of TFS related to TF or PF. However, the private sector demonstrated a clear understanding of its obligations, and FIs (less so DNFBPs) appear to be complying with these obligations. There is clearly established mechanism for implementation of TFS, which has been used often by authorities and the private sector to freeze assets in cases of ML. This combined with the identification of several false positives implies the established mechanism for implementing TFS is being utilized.
- The financial sector supervisors are monitoring their respective reporting entities for compliance with TFS obligations. However, the SAT is not supervising the majority of DNFBPs, raising concerns over the potential use of the non-financial sector for TF or PF.
- Lack of private sector access to timely and up-to-date information on the BO of legal entities increases the likelihood for potential sanctions evasion, including for TF- and PF-related sanctions.

Non-profit organizations (Immediate Outcome 10)

- The NPO sector is broadly supervised given its classification as a DNFBP, though risk-based, targeted monitoring of the sector has yet to be fully implemented. Authorities have identified higher risk entities for targeted outreach and monitoring through a 2017 risk assessment of the sector and are revising regulations to fully implement FATF revisions related to NPOs.

Recommended Actions

TF offence (Immediate Outcome 9)

- The Mexican authorities should strengthen the assessment of TF risks to ensure that it includes a

thorough evaluation of all sectors vulnerable to TF.

- The PGR should reinforce the capacity of the UEITA to identify potential TF cases and conduct investigations into these cases using financial investigation and the investigation techniques available under criminal procedure law. To that end, a TF-specific investigation manual and specialised training should be developed, reinforcing coordination between the PGR and other relevant authorities e.g. the FIU, and the civil intelligence agency.
- Mexico should include TF in the list of offences for which legal persons may be held criminally liable.

Targeted financial sanctions related to TF (Immediate Outcome 10) and Targeted financial sanctions related to PF (Immediate Outcome 11)

Mexico should:

- Increase resources to more effectively monitor DNFBPs for compliance with TFS obligations;
- Improve interagency coordination related to TF in order to better detect potential cases for criminal investigations; and
- Implement a more targeted approach to outreach to and monitoring of the NPO sector, based on the findings of the revised risk assessment, completed in 2017.

220. The relevant Immediate Outcomes considered and assessed in this chapter are IO.9–11. The recommendations relevant for the assessment of effectiveness under this section are R.5–8.

Immediate Outcome 9 (TF investigation and prosecution)

Prosecution/conviction of types of TF activity consistent with the country's risk-profile

221. Mexico demonstrated a reasonable understanding of its TF risk. Mexico's NRA identifies TF as "low-medium risk." The 2014–2018 National Security Program identifies terrorism as one of the five risks and threats for Mexico, and the NRA describes this threat as predominantly derived from external dynamics related to the country's geographical position, the porosity of its border, and corruption enabling criminal networks to be used as a platform for international terrorism. Mexico considers that the greatest indirect risk of terrorism is posed by the trafficking of undocumented persons, specifically the possibility that networks facilitating illegal immigration to the U.S. might be used as a vehicle for Islamic terrorism.

222. Nonetheless, the Mexican authorities' main focus, as far as TF risks are concerned, is on STRs provided by FIs involving high-risk jurisdictions. Furthermore, it is not clear whether adequate prioritization is being given to the detection and disruption of potential TF activities.

223. The absence of TF cases results in a lack of experience within the body responsible for the prosecution of TF which may impact Mexico's ability to detect potential TF cases. The consequence of the foregoing is that the UEITA has diminished capacity to identify potential TF cases and conduct investigations into them using the investigation techniques available under criminal procedure law. Mexico could better ensure that the relevant authorities are equipped with the right tools in terms of training, expertise and priority-setting to be able to effectively address this issue.

224. Mexico has a specific legal and institutional framework for the investigation and prosecution of TF offences. Within SEIDO, the PGR has UEITA to investigate and prosecute TF. Furthermore, other agencies such as the border, public security and intelligence agencies cooperate with the UEITA in order to gather evidence that might constitute the offense of terrorism, its financing or other related crimes.

225. The authorities demonstrated effective use of international cooperation channels, in particular with the U.S. to detect potential TF activities.

TF identification and investigation

226. In September 2015, the FIU established a TF risk evaluation model based on a series of indicators to analyse and evaluate STRs provided by FIs involving high-risk jurisdictions. Where, on the basis of this risk evaluation model, the FIU identifies a potential TF case, it disseminates the information to the UEITA so that it can open a criminal investigation. Where the UEITA has reasonable grounds to believe that a TF offense has been committed, it exchanges information with the FIU and other relevant agencies such as the civil intelligence agency to confirm the evidence. In that connection, between 2010 and 2015, 310 requests were sent to the FIU seeking financial intelligence and confirmation of the evidence held by the UEITA.

Box 3. **Investigation into Potential TF**

Mexico provided an example in which the FIU's risk evaluation model led to an investigation into a potential TF offense. As a result of the exchange of intelligence and information among competent authorities, a number of cash transfers were identified as having been received by individuals with links to high-risk jurisdictions (Syria and Lebanon). The UEITA requested information from customs and the federal police through the *plataforma México*, a comprehensive criminal database. Ultimately, however, as a result of the investigation, charges were laid for organised crime and human trafficking rather than TF.

227. Notwithstanding the above, the PGR was unable to point to clear mechanisms such as protocols or manuals containing guidelines for the clear identification and prioritization of potential TF cases. Furthermore, it appears that the investigations conducted by the UEITA are investigations based on intelligence gathering by FIU or the civil intelligence agency and never proceed to the next level, being the initiation of a criminal investigation employing e.g. investigation techniques.

228. Between December 1, 2006 and November 30, 2014, only 28 preliminary investigations (*averiguaciones previas*) were opened into potential terrorist offences. According to the Mexican authorities, the UEITA has conducted three terrorism investigations involving violent acts in different states (*caso Campeche*, *caso Estado de Mexico,* and *caso Jalisco*). However, no evidence of TF was found, and these investigations were closed without terrorism charges being brought to court. According to the 2015 Global Terrorism Index, Mexico occupies the forty-fourth place in the world ranking of countries where terrorist activities have the greatest impact. Mexico has never prosecuted a case of TF, but some preliminary investigations into TF have identified other crimes such as human trafficking, some of which are being investigated jointly with the FBI.

TF investigation integrated with—and supportive of—national strategies

229. The lower priority given to the detection of TF activity (see above as well as IO.1 and IO.10) makes it difficult for Mexico to integrate investigation with national CT strategies and investigations. Although Mexico has a structure in place in order to implement the national strategy on TF investigations (see below), the mechanisms to ensure coordination between the UEITA and other relevant actors such as the FIU, the Specialised High Committee on Disarmament, Anti-Terrorism and International Security (CANDESTI), the civil intelligence agency, and LEAs could be improved.

230. Mexico has two High Level Groups on ML and TF/PAMD which were established in order to implement the national strategy on TF investigations, in the light of the threats identified. These are interdisciplinary and specialised groups, covering the prevention, detection and investigation of TF, and meet at regular intervals. The main objective of the High Level Group on TF/PAMD is to put forward proposals for the establishment, analysis, creation, review and assessment of all institutional policies for preventing TF/PAMD. In turn, a range of action plans and specific strategies are applied with a view to addressing TF threats. However, no information was available on the outcomes, action plans or strategies drawn up.

Effectiveness, proportionality and dissuasiveness of sanctions

231. As mentioned in R.5.6, Article 139 *quarter* as read with Article 139 of the CCF provides that natural persons are liable to imprisonment of between 15 and 40 years and a fine of between 400 and 1,200 days at the stipulated daily rate upon conviction for TF. TF penalties are proportionate in the light of penalties for other offenses. TF is not included in the list of offences for which legal persons can be held criminally liable under the CCF. Since, at the time of the on-site visit, there had been no prosecutions or convictions for TF offenses, no sanctions had been imposed

Alternative measures used where TF convictions is not possible (e.g. disruption)

232. Mexico has, on different occasions, used other criminal justice and administrative measures to disrupt terrorist activities, such as deporting foreign residents deemed to pose a potential threat. However, the measures in question were not employed because it was not practicable to secure a TF conviction, with the result that these cases are not relevant to this criterion.

233. **Mexico has achieved a moderate level of effectiveness for IO.9.**

Immediate Outcome 10 (TF preventive measures and financial sanctions)

Implementation of targeted financial sanctions for TF without delay

234. Mexico passed a resolution in January 2014 putting in place a comprehensive system for implementing TF- and PF-related TFS pursuant to UNSCRs 1267, 1373, 1718, 1737, and relevant successor resolutions. Mexico also amended several financial laws in 2014 and issued regulations to establish freezing obligations for FIs and DNFBPs.[53] These regulations established the parameters for inclusion on Mexico's domestic BPL, which applies to the financial sector, and the Related Persons List (LPV), which applies to DNFBPs.[54] Both lists incorporate UN designations, and are publicly available on the Ministry of Finance (SHCP) website, as well as disseminated immediately

[53] Mexico is currently contemplating a draft law to strengthen implementation of all UN obligations, including TFS.
[54] The BPL and LPV contain the exact same names of designated entities and individuals, but are disseminated separately, either to FIs or DNFBPs.

(within 24 hours) when there are changes to the lists.[55] This process was established as a result of deficiencies identified in Mexico's third round evaluation, and authorities have conducted outreach to reporting entities to clarify their obligations.

235. Mexico does not have any cases to demonstrate implementation of TFS pursuant to UNSCRs 1267 or 1373. However, authorities were able to demonstrate a clear process for checking the UN lists, which are incorporated into the domestic BPL, and reported a significant number of accounts frozen (and subsequently reported to the FIU) related to domestic designations for ML. The fact that the asset freezing regime has worked for domestic ML designations provides some assurance that it would work for designations of TF and PF if activity was detected, even though there have been no relevant accounts or transactions identified related to the latter crimes.

236. FIs and DNFBPs generally demonstrated an understanding of their obligations, and of the exact procedures to be followed in the event assets or funds are identified. Reporting entities offered a detailed explanation to the assessors of these obligations, including how they are notified of changes to the UN list,[56] what the requirements are related to checking names of new and existing customers against the list, and (in the event of a positive match) their obligation to immediately freeze without delay any identified funds or assets and block any transactions. Several false positives have been reported to the FIU, which implies that despite the absence of cases, the private sector is generally complying with the established mechanism for implementing TFS.

237. The process for implementing TFS is as follows: When the Mexico Mission to the UN informs the members of CANDESTI of changes to the 1267 list (immediately after the amendment is made), it is the responsibility of the FIU to immediately inform the AML/CFT supervisors (CNBV, CONSAR, CNSF, and SAT), who are subsequently obligated to notify their respective reporting entities within 24 hours of receiving the notification. Reporting entities are required to immediately suspend (within 24 hours) any act, transaction, or service with designated customers and freeze any identified funds or assets. FIs and DNFBPs are required to submit a report to the FIU within 24 hours of identifying any funds or assets, or blocking any transactions. As noted previously, there has never been a positive match or identification of any funds or assets related to TF, though the number of successful blockings for ML demonstrates an effective process.

238. FIs and DNFBPs are subject to sanctions for failing to comply with their TFS obligations, though authorities have never identified a compliance failure and therefore have levied no sanctions. Financial sector supervisors demonstrated that they are monitoring reporting entities for compliance with their TFS obligations. However, the DNFBP supervisor (SAT) is not supervising the large majority of reporting entities under its purview, including for TFS compliance (as noted in IO.3). This gap in supervision raises concerns that sanctioned entities or individuals could transact in the non-financial sector more easily without detection. The lack of sanctions on DNFBPs may be indicative of failure to detect compliance failures (a result of weak supervision), rather than an indicator of strong compliance.

239. The CANDESTI is the interagency body that coordinates national security policy, including compliance with UN obligations. The CANDESTI Task Force on Terrorism (one of six sub-groups),

[55] www.gob.mx/shcp/documentos/FIU-listas-actualizadas

[56] Reporting entities are notified of changes to the lists via portals on the respective supervisors websites, which compliance officers are obligated to check regularly. Some larger FIs also use software to automatically update list changes.

chaired by the FIU, is the authority responsible for designating pursuant to 1373, and proposing de-listings pursuant to UNSCRs 1267 and successor resolutions.[57]

240. With regards to implementation of UNSCR 1373, Mexico has never received a request from a foreign jurisdiction, and has never designated an individual or entity of its own motion. Any member of the Task Force can propose a target to the larger CANDESTI group for designation under 1373, at which time the Task Force is required to meet to discuss the proposal. The Task Force has met one time to discuss a potential target, though it was determined that the individual did not meet the criteria. No other proposals have been brought before the Task Force.

241. As noted previously, although any agency can bring a potential UNSCR 1373 case to the CANDESTI Task Force for consideration, only the FIU has done so (on one occasion). Agencies do not appear to be actively involved in the detection of potential cases, and seem to rely mostly on financial intelligence obtained from the FIU before opening an investigation or considering a designation under UNSCR 1373. Authorities noted that in practice, the process whereby a decision is made to pursue a domestic designation is initiated by the FIU when it identifies an act or transaction with potential links to terrorism or TF. If after further investigation by the FIU and respective intelligence agencies (particularly the civil intelligence agency), it is determined that the case has sufficient elements to meet the criteria for designation under UNSCR 1373, the FIU convenes a meeting with the Task Force to make a determination.

242. Authorities provided examples of several other potential TF cases that were identified as part of an Egmont exercise on foreign terrorist fighters, but which were later determined (after further intelligence was collected) not to have a TF link. These individuals were added to the BPL as a preventive measure while their cases were being investigated, and remain on the list since despite no known terrorism link, authorities have found links to ML and organised crime. The use of the BPL to block funds while investigating a potential TF link, if coordinated properly with other agencies, is a good preventive measure that could potentially disrupts TF flows while authorities gather further domestic intelligence or seek international cooperation to proceed with a sanctions designation and/or a criminal case.

243. The inability of reporting entities to obtain in timely manner accurate and up-to-date information on the BO of legal entities is a vulnerability that may increase the potential for sanctions evasion through the use of legal entities and arrangements (see IO.5). However, as noted in IO.5, Mexican authorities are taking measures to mitigate this shortcoming by publishing an amended regulation to obligate all reporting entities to identify the beneficial owner of each of their customers, regardless of their risk profile. These revised regulations are entering into force in October 2017. Other action performed by the Mexican government is the inter-connectability of the registries and the updating of the states' information.

Targeted approach, outreach and oversight of at-risk non-profit organisations

244. There are approximately 257 000 NPOs in Mexico, of which roughly half fall into the category of NPO as defined by the FATF.[58] Current regulations governing the sector are far more extensive and therefore more burdensome than what is required by the FATF, and not consistent with the risk-

[57] The CANDESTI Task Force on Terrorism is made up of the following members: PGR, the civil intelligence agency, FIU, Federal Police, Immigration, Ministry of Communications and Transport, the Army, Navy, and the SRE.
[58] The FATF defines an NPO as a "legal person, organization or arrangement that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes."

based approach as defined in revisions to R.8. All NPOs that receive tax-deductible donations are supervised for AML/CFT given their classification as VAs, as well as any NPOs that receive donations above the USD 6 500 threshold, and are therefore subject to the same requirements as DNFBPs.

245. At the time of the on-site, authorities had not yet implemented a targeted approach to oversight of or outreach to the NPO sector consistent with recent changes for R. 8. However, authorities noted plans to revise the regulations for NPOs in light of these changes and have taken steps toward implementation, including conducting a revised sectoral risk assessment in February 2017 in order to identify those organizations that are most at risk.

246. During this revised assessment, the FIU assessed approximately 13 000 of the 125 000 NPOs that fall under the FATF definition (using SAR reporting on those entities), and identified a small sub-set of organizations that are most likely to be abused based on several factors in the FIU TF risk model, including the NPO's ability to conduct international wire transfers and the geographic location of the wire recipient. Authorities believe that the revised assessment will strengthen the country's ability to mitigate TF risk in the NPO sector by allowing them to further prioritize outreach and monitoring.

247. The FIU has issued general guidance to FIs and DNFBPs (including NPOs) on TF risk, including "Guidance on Indicators to Detect Possible Transactions related to TF" and "Guidance on the Most Common Transactions Performed by Foreigner Terrorist Fighters."[59] NPOs were also informed of the outcome of the 2015 NRA as part of the FIU's broader outreach on this exercise to reporting entities. The FIU noted plans to conduct more targeted outreach to those entities identified as higher risk in the revised 2016 assessment.

248. As the responsible supervisor for NPOs, SAT authorities did not demonstrate an understanding of how the sector might be vulnerable to TF abuse, and instead noted that they relegate all responsibility for TF-related monitoring to the FIU. The FIU demonstrated a better understanding of TF risk and has conducted some monitoring of NPOs through analysis of SAR reporting. The FIU has identified several cases of suspected NPO-related TF based on this SAR analysis, and subsequently passed these to the civil intelligence agency for further intelligence gathering, though to date no TF links have been found and none have led to a criminal investigation.

249. The team was only able to interview one humanitarian NPO, but also met with the NPO Association, which was able to provide further perspective on the types of charitable organisations that operate in Mexico and what reporting requirements they are subject to. Both organisations expressed the view that the NPO sector is low risk for TF, noting that the large majority of charitable organisations operating in Mexico are locally based and spend their funds locally, and that very few conduct any international transactions.

Deprivation of TF assets and instrumentalities

250. As previously noted, to date authorities have not identified any funds or assets related to TF, either through the implementation of TFS or through the process of a TF investigation. Nevertheless, the use of the TFS freezing regime for domestic ML designations has been successful and demonstrates that in cases where there is a positive UN match related to TF, reporting entities have the tools to proceed with their freezing obligations in a timely manner.

[59] Issued in 2015 and 2016.

Consistency of measures with overall TF risk profile

251. Mexico has implemented several measures to mitigate its TF risk, which the country assesses to be low. There are mechanisms in place to detect and target TF through the use of TFS, though to date no TF has been detected. There has been some monitoring of and outreach to the NPO sector (as part of the FIU's broad outreach to DNFBPs), and authorities are taking steps towards implementing a more targeted approach since the revised NPO assessment.

252. Ultimately, the limited resources and attention devoted to combating TF, may impact Mexico's ability to detect potential TF cases and identify targets for criminal prosecution or for designation.

253. **Mexico has achieved a substantial level of effectiveness for IO.10.**

Immediate Outcome 11 (PF financial sanctions)

Implementation of targeted financial sanctions related to proliferation financing without delay

254. Mexico lacks many examples of cases to demonstrate broad implementation of TFS related to PF, though the procedures for implementing TSF related to PF are the same as those for TF, and the private sector demonstrated a clear understanding of its obligations from the receipt of notification of changes to the UN lists to the requirement to freeze any identified funds or assets and block any transactions without delay. Authorities have utilized TFS authorities on one occasion to freeze an asset belonging to an entity designated under UNSCR 1718 (see Mu Du Bong case).

255. The CANDESTI Task Force on Nuclear and Biological and Chemical Weapons[60] is the sub-group responsible for coordinating national policy on proliferation and PF, including implementation of PF-related TFS pursuant to UNSCRs 1718 and successor resolutions, and UNSCR 1737 and successor resolutions.

Identification of assets and funds held by designated persons/entities and prohibitions

256. To date authorities have not detected any attempt by an individual or entity designated under PF sanctions (UNSCRs 1718, 1737, or 2231) to use the Mexican financial system, and no funds have been identified related to PF. The Mu Du Bong case demonstrates the government's willingness and capacity to implement TFS where an asset related to a PF designation is identified.

[60] SEGOB, FIU, SEDENA, SEMAR, SRE, PGR

Box 4. **Case of DPRK Ship Mu Du Bong, 2014**

In July 2014, Mexican authorities seized the Mu Du Bong, a North Korean ship that ran ashore in Mexican waters, after the UN notified them of the possibility that the ship might be owned by Ocean Maritime Management Company (OMM), a North Korean entity sanctioned under UNSCR 1718. In February 2015, the UN Panel of Experts completed its report to the 1718 Committee, in which it confirmed that OMM was the ship's owner and therefore subject to UN sanctions. Authorities held the ship at the Port of Tuxpan until ordering it to be dismantled in April 2016.

257. However, the deficiencies outlined in IO.5 raise concerns over whether assets or funds held by a designated entity or individual can in fact be detected by the private sector at the time of account opening or transaction. The inability of reporting entities to obtain in timely manner accurate and up-to-date information on the BO of legal entities is a vulnerability that may increase the potential for sanctions evasion through the use of legal persons and arrangements. However, as is stated on IO.5 and 10, Mexican authorities are taking measures to mitigate this shortcoming by publishing an amendment of CDD regulations that will go into force in October 2017.

258. Mexico conducts some trade with Iran, which may increase the risk of proliferation and PF activity. However, authorities noted that this trade is limited and were able to demonstrate several measures to mitigate that risk, including strict export controls on dual use goods and training on proliferation and PF-related issues to relevant federal agencies, including customs and law enforcement officials. Officials have received several trainings from international experts (e.g. Inter-American Committee against Terrorism/Organisation of American States and International Atomic Energy Agency), including on the identification of dual-use goods, interagency exchange of information and coordination, investigative techniques, and best practices on prosecutions and sanctions implementation.

259. Mexico demonstrated a solid understanding of the country's international obligations related to countering proliferation and PF activity. There is some interagency coordination among relevant agencies on proliferation and PF, which Mexico accomplishes through the CANDESTI Task Force on Nuclear Weapons. Its members include the Ministry of Foreign Affairs (SRE), SHCP, the FIU, SAT's General Administration of Customs, Ministry of Energy, Ministry of Economy, and the PGR, among others. The Task Force is currently considering the proposal of a draft Law on Strategic Trade which will, among other reforms, strengthen export controls related to dual use goods, and expand the range of criminal and administrative sanctions related to proliferation activity.

FIs and DNFBPs' understanding of and compliance with obligations

260. As noted previously, both FIs and DNFBPs demonstrated an understanding of their obligations related to TFS and noted regular communication from their respective supervisors of changes to the UN lists. Reporting entities received official notices in 2015 and 2016 informing them of their obligations, including CDD and reporting requirements, and the FIU has also issued three separate documents providing guidance to reporting entities on high-risk countries, including Iran and North Korea.

261. Larger institutions (particularly banks) have taken steps to implement their obligations in a timelier manner by utilizing software that automatically checks changes to the lists, allowing them to potentially identify matches prior to receiving notification from the authorities.

Competent authorities ensuring and monitoring compliance

262. The financial sector supervisors are monitoring reporting entities for compliance as part of their overall supervisory programs. The CNBV conducts regular on-site visits whereby it verifies that reporting entities under its authority have policies and procedures in place to identify customers listed on the BPL. Once the CNBV verifies that the policy manuals contain said policies and criteria, the application of these is verified, and tests are run to determine whether the automated systems are able to detect when someone on the list attempts to perform any transaction. The CNSF also conducts on-site visits to observe the procedures used by the bonding and insurance companies and carries out tests to ensure that the insured and bonded persons are not designated under any UNSCR.

263. As noted previously, weak supervision of the DNFBP supervisor raises concerns over whether violations are in fact being identified in the non-financial sector if or when these occur. The SAT noted that, during on-site inspections, it has been able to verify that DNFBPs are checking the AML portal for changes to the UN lists. However, the SAT has conducted minimal onsite examinations (see IO.3).

264. There have been no sanctions levied on any reporting entities for compliance violations related to TFS obligations, but there have been sanctions with regards to noncompliance with the BPL for ML cases, which is a positive indicator that in a case where there is noncompliance with the PF component, such violations would also be sanctioned.

265. **Mexico has achieved a substantial level of effectiveness for IO.11.**

CHAPTER 5. PREVENTIVE MEASURES

Key Findings and Recommended Actions

Key Findings

- The financial sector demonstrates a good understanding of the primary ML threats from OCGs and associated criminal activities as well as tax crimes, but their recognition of corruption as a main threat is uneven. While recognizing the general threat of organised crimes facing Mexico, DNFBPs' appreciation of the ML risks in their respective sectors appears limited. FIs did not demonstrate sufficient understanding of ML risks associated with misuse of legal persons. DNFBPs' (including notaries and professionals) understanding of these issues is even more limited. Both FIs and DNFBPs have a less developed understanding of TF risks.
- FIs and DNFBPs, except lawyers and accountants, generally have a good understanding of their AML/CFT obligations. The quality of basic CDD measures and record keeping of FIs appears good in general, but is negatively impacted by some technical deficiencies. FIs and DNFBPs appear to be aware of and are complying with their obligation to refrain from opening accounts or carrying out transactions when CDD required under the Mexican legal framework cannot be fulfilled. Discussions suggested that lawyers and accountants generally have a lower level of awareness of their AML/CFT obligations.
- A serious concern across all sectors is that beneficial owners are being identified only to a limited extent, systematically weighing on entities' effectiveness in assessing and managing ML/TF risks. Owing largely to shortcomings in the legal framework, FIs seek to identify beneficial owners in only limited circumstances. Where FIs are required to identify beneficial owners (legal persons categorized as high risk and natural persons), FIs unduly rely on customers' self-declaration to identify beneficial owners. For the majority of legal persons that are not categorized as high risk, entities only obtain information on corporate customers' first layer legal ownership without seeking to reach the natural persons who ultimately own or control the entity. DNFBPs generally believe it is not their role to identify beneficial owners.
- The methodologies for risk categorization of customers applied by core FIs are not robust enough to reasonably reflect customer risk profiles, as evidenced in that FIs only rate a very small portion of domestic PEPs as high risk. DNFBPs are not subject to requirements to identify (foreign or domestic) PEPs. As a result, the risks posed by domestic PEPs are being managed only to a limited extent. FIs appear to be implementing measures for wire transfers, correspondent banking, high-risk countries, and TFSs, sometimes beyond the legal requirements.
- The quality of transactions reporting to the FIU, in particular from banks, has improved in the past few years. Brokerage firms and insurance firms are also improving, but progress is needed in MSBs. The basis of reporting obligations of FIs are somewhat blurred between suspicious and unusual, which may have contributed to cross-sector concerns about quality and adequacy of the analysis supporting the reports. UTR/STR reporting by large firms is not always as prompt as it should be. The 24-hour reports are being used as a vehicle primarily to report matches with various sanctions lists. Reporting by DNFBPs is very low, a particular concern being that professionals (lawyers and accountants) have not filed a single STR in the past three years.

- The framework governing internal controls of individual FIs is generally comprehensive and being implemented. Though not required, financial groups have developed and implemented AML/CFT policies at the group level to the extent possible under the legal framework. In contrast, discussions suggested that DNFBPs have much less robust internal controls.

Recommended Actions

The Mexican authorities are recommended to:

- Improve FIs' and DNFBPs' (in particular notaries') understanding of ML risks from corruption and their ability to manage such risks, including by: (i) enhancing the NRA analysis of corruption as a ML threat; (ii) requiring entities to determine whether the beneficial owner is a PEP and apply controls in line with the standard; (iii) extending the requirements on PEPs to DNFBPs, and (iv) providing guidance on assessing and managing risks associated with domestic PEPs.
- Deepen FIs' and DNFBPs (in particular notaries, lawyers, and accountants)' understanding of ML risks associated with misuse of companies in the context of all main threats, including by: (i) enhancing the NRA analysis in this respect; and (ii) providing typologies and guidance to reporting entities.
- Strengthen measures on beneficial owners by: (i) Upgrading the requirements for other entities that are not covered in the February/March 2017 amendments on identifying beneficial owners including those of legal persons in line with the standard; (ii) Engaging all FIs and DNFBPs (in particular, notaries, lawyers, and accountants) to clarify the supervisory expectations regarding the requirements on beneficial owners, and providing guidance on best practices; and (iii) Ensuring the issue of undue reliance on customers' self-declarations is addressed.
- Clarifying the basis for reporting is suspicion or reasonable grounds to suspect as opposed to unusual indicators.
- Improve promptness of reporting including by redefining the timeframe from the moment when the suspicion is formed and ensuring timely decisions of the Communication and Control Committee (CCC).
- Engage DNFBPs (in particular lawyers and accountants) to raise their awareness of the AML/CFT obligations and ML/TF risks faced by their sectors.

266. The relevant Immediate Outcome considered and assessed in this chapter is IO.4. The recommendations relevant for the assessment of effectiveness under this section are R9–23.

Immediate Outcome 4 (Preventive Measures)

Understanding of ML/TF risks and AML/CFT obligations and Application of risk mitigating measures

267. The financial sector demonstrates a good understanding of ML threats from OCGs and associated criminal activities especially drug trafficking, consistent with the NRA findings. There is a clear consensus among FIs that associated vulnerabilities and high-risk factors include cash transactions, international money transfers, and specific geographic regions in Mexico (especially the northern states bordering the U.S.). In this regard, entities appear to focus more on risks

associated with U.S.–Mexico cross-border activities than with potential cross-border illicit flows from/to Central or South American countries.

268. Tax evasion is broadly recognized by banks and other large FIs as another major threat, though much smaller in scale than those generated by OCGs. This reflects the importance the authorities attach to tax crimes including issuance by the SAT of a list of companies which are possibly involved in tax fraud. The FIs generally rely on this list to detect customers and transactions potentially related to tax crimes. They also pay special attention to transfers to and from tax havens.

269. Although banks concur with the NRA's finding that they are of the highest ML/TF risks, the reduction of banking services to MSBs due to a perception of higher risks associated with them may have resulted in a migration of some ML/TF risks to non-core FIs. While banks offer services to large money remittance companies and some exchange houses, in recent years they have reduced their exposure to the MSBs and completely stopped serving exchange centres. As a result, many MSBs have to turn to non-core deposit-taking FIs (e.g.: SOFIPOs) to access services. This trend represents a migration of some risks from core FIs to non-core deposit-taking entities, which is a potential concern as it is widely recognized the AML/CFT controls being applied by these entities are weaker.

270. While recognizing the general threat of organised crimes, DNFBPs' appreciation of the ML risks facing their respective sectors is limited. All DNFBP representatives met were aware of and expressed their general agreement on the NRA's findings. Many of them consider real estate transactions to be high risk, consistent with the NRA findings, which was however not shared by representatives of the real estate sector. The NRA notes that "the use of professional services provided by lawyers, accountants, and notaries has been fundamental" in carrying out ML through misuse of legal persons.[61] However, it rates gatekeepers (notaries, lawyers and accountants) as low risk. Representatives of these professions who were met with do not seem to appreciate that the misuse of legal persons is a major ML risk facing their professions. Representatives of casinos consider their own sector to be low risk, which is at odds with the NRA. This lack of understanding of risks could in part be explained by the relatively recent extension of AML/CFT obligations to DNFBPs in 2012 and SAT's weak oversight (see Chapter 6). For each DNFBP sector/profession, there are firms unregistered with the FIU (see **Table 3**, Chapter 1). Although only certain activities and activities above a certain threshold are subject to AML/CFT obligations (see TCA R.22), some unregistered firms may be carrying out covered activities without having to file a threshold report. Without access to FIU outreach and guidance, these firms are likely to have even lower awareness of their AML/CFT obligations. This concern is in particular relevant for lawyers and accountants, only a very small portion of which are registered with the FIU. Specifically:

- **Notaries** act as key gatekeepers in many aspects of their activities. In Mexico, notaries authenticate the documentation for the formation of companies, real estate transactions, and customers' identity. Brokers play a similar role in the formation of companies only. Notaries' involvement in company formation (see Chapter 7) and real estate transactions is mandatory. Notaries generally consider real estate transactions most risky for ML; most of the STRs they file concern real estate transactions.
- **Lawyers and accountants** in Mexico offer services covered by the standard, such as advising on forming companies and managing clients' assets. Since bar membership is not mandatory, less than three percent of the lawyers are part of one of the seven bar

[61] Para 171, NRA.

associations. The largest bar association provides some training on AML/CFT to its members. Although some law firms appear to be aware of their AML/CFT obligations and ML threats, in particular from tax evasion, the overall level of lawyers' awareness of their AML/CFT obligation and appreciation of ML risks is low, especially those that are not members of a bar association. Similarly, the vast majority of the accountants do not belong to any accountants' college. Like lawyers, accountants appear to have limited awareness of their AML/CFT obligations and ML risks arising from their operations.

- Although representatives of **real estate agents** appear to be aware of their AML/CFT obligations, they showed a very limited appreciation of ML risks. They seem to be of the view that the significant reduction in use of cash in real estate transactions has translated into very low ML risks.
- The sector representatives of **casinos** are aware of their obligations, but consider the ML risks posed by their business is low owing to the business model which is typical for casinos in Mexico. Currently casinos operated on cruise ships based in Mexican ports are not subject to AML/CFT obligations (see also Chapter 6).

271. The appreciation of corruption as a main threat appears uneven and insufficient. Although a few large FIs that were interviewed recognize corruption as a major ML threat, most did not. DNFBPs' understanding of corruption as a threat is even more limited. This uneven understanding is not helped by the fact that the NRA does not identify corruption as a major ML threat. As a result, entities appear to have paid inadequate attention to associated vulnerabilities and in particular are not effectively mitigating the risks posed by domestic PEPs (see below).

272. FIs and DNFBPs generally consider use of cash a major risk, which has been partially mitigated by restrictions imposed on cash transactions. According to Banco de México's analysis, the value of USD cash transactions has decreased significantly in particular since 2010 when restrictions (i.e., ceilings) on receiving dollars were imposed on banks, brokerage firms, and exchange houses. Some entities opted to stop dealing in USD altogether. Moreover, restrictions on payments in cash (pesos or foreign currencies) were imposed on certain transactions including real estate transactions, though generally use of pesos has increased in Mexico (see Chapter 1).[62]

273. FIs and DNFBPs generally did not demonstrate sufficient awareness of and attention to risks associated with misuse of legal persons, and their ability to manage such risks is seriously hampered by the legal deficiencies regarding beneficial owners (see below)**.** Many entities believe the reduction or cessation in dealing in cash (especially USD) has resulted in a significant reduction or even elimination of ML risks. This may be reasonable to a degree for MSBs, but less so for the core FIs, professionals acting as gatekeepers and the real estate sector. As a result of the FIU's efforts to provide guidance on related typologies, the number of UTRs filed by FIs directly related to misuse of legal persons has increased over the past few years (see **Table 30** below), reflecting an increasing understanding of associated risks. However, the majority of FIs met did not consider ML risks associated with misuse of legal persons an area worth special attention. Only two representatives of FIs met noted that they need to manage ML risks related to misuse of legal persons. Moreover, they appreciate such risks only in the context of tax crimes, referring to the SAT list of companies involved in tax fraud, while the NRA finds that OCGs also exploit licit businesses to launder illegal

[62] Para 195, NRA.

proceeds[63]. DNFBPs' understanding of these issues is more limited. This is a particular concern about notaries, lawyers and accountant, who are most exposed to such risks.

Table 30. **Number of Unusual Transaction Reports Related to Misuse of Legal Persons** [64]

Indicator	2013	2014	2015	2016
Shell companies, legal person presents false or inconsistent documents and misuse of legal persons by strawmen	1 005	3 087	7 858	12 470
Movement of funds to tax heavens, other risk jurisdictions or not justified trade operations by legal persons	5 626	6 069	3 681	2 166
Legal persons related to high-ML-risk activities (e.g.: cash intensive business)	1 592	3 399	3 679	5 857

Source: FIU

274. FIs and DNFBPs have a common view that TF risk is low, consistent with the NRA conclusion. However, entities' considerations seem primarily focused on risks of terrorism rather than TF. Some entities indicated their need for more guidance from the authorities in this regard.

Application of basic and enhanced CDD and record keeping requirements

275. While the supervisors are of the view that FIs' implementation of CDD requirements has improved over the past few years, based on their observations arising from on-site inspections as well as off-site monitoring, it is difficult to verify such observations with the information provided. Between 2013-2015, the CNBV in the course of its off-site surveillance and on-site inspections identified deficiencies with respect to information on customers' identities, risk ratings, and ongoing monitoring in a number of institutions across the sectors. All the observations were made from a compliance perspective indicating breaches under each chapter of the regulations. There are no indications on the nature of the shortcomings so overall it is difficult to identify any general trend from these observations to confirm that implementation of CDD requirements has improved (also see Chapter 6). In some cases, the data provided could suggest the opposite. For instance, the number of banks found with shortcomings in their CDD procedures in the CNBV's on-site inspections actually increased slightly between 2013-2016. According to the CNBV, this reflects its strengthened oversight and enhanced supervisory expectation over the past few years. MSBs became subject to CNBV's oversight for AML/CFT only in 2012, and they clearly need to catch up. The percentage of MSBs found with shortcomings in CNBV's off-site supervision is very high. For instance, 1,061 out of around 1,500 exchange centers and all 49 money remitters were found deficient in their CDD procedures in 2015. According to the CNBV, some of these shortcomings are technical in nature, and some represent the transition to comply with the regulatory requirements introduced in 2014. Based on CNSF's observations from on-site inspections, deficiencies with respect to CDD have decreased in 2014–2016. Again, it is unclear how many of those are systemic failures with broader implications. In addition, supervisors' findings on entities' implementation of the restrictions on receiving USD point to weaknesses remaining in some FIs' controls with respect to cash transactions.

[63] Para 82, NRA.
[64] There are double countings across various indicators as one UTR can fall under multiple indicators.

276. The quality of basic CDD measures and record keeping of FIs appears good in general, but is negatively impacted by some technical deficiencies. FIs generally demonstrate a good understanding of their obligations on customer identification and record keeping. However, as FIs are not required to update non-high-risk customers' files unless a change in behaviour is detected, the extent to which customer profiles are up-to-date is uncertain. The quality of CDD conducted by insurance agents, upon whom insurance companies rely, has improved but remains a concern of some insurers. FIs are aware of their obligations on record keeping, and no significant issues have been identified by supervisors with respect to record keeping. There is, however, no evidence that the supervisors review and determine how the requirement embedded in the Code of Commerce to keep records of transactions that are not subject to reporting is being implemented by FIs. (see TCA, R.11).

277. A serious concern across all sectors is that beneficial owners are being identified only to a limited extent, systematically weighing on entities' effectiveness in assessing and managing ML/TF risks. Owing largely to shortcomings in the legal framework, FIs seek to identify beneficial owners in only limited circumstances. FIs are required to identify beneficial owners only when a natural person customer declares s/he is acting on behalf of a third party or when a customer that is a legal person is categorized by the entity as high risk. For customers that are natural persons, FIs tend to over-rely on customers' self-declarations to determine who the beneficial owners are. For legal persons categorized as high risk, entities seek to reach the natural person(s) who legally owns 25 percent or more of the legal person. When the ownership chain becomes complex (i.e., when it needs to drill down more than one level to reach the natural persons), entities generally rely upon the declaration made by the company's legal representative to determine who the beneficial owners are. Some FIs require such declarations to be notarized. However, notaries do not seem to go beyond legal ownership (see below). It appears that only a very small percentage (one percent as indicated by a large bank) of legal persons are rated as high risk by FIs. For the majority of legal persons that are not categorized as high risk, entities only obtain information on corporate customers' first layer legal ownership without seeking to reach the natural persons who ultimately own and/or control the legal person. While some foreign banks, consistent with their group-wide policies, attempt to identify and verify the identity of the ultimate beneficial owners of legal persons regardless of their risk ratings, this is not the common practice of domestic FIs when dealing with legal persons not classified as high-risk. The amendments to the regulations that were introduced in February/March 2017 will help address the shortcomings in the legal framework for banks, brokerage firm and MSBs once they take effect in the coming months.

278. While large MSBs (exchange houses, money remitters, and exchange centres) appear to have some controls beyond basic CDD, detection of structured transactions is a challenge for smaller operators. MSBs do not maintain account relationships and deal only with "users," who are occasional customers. They identify customers only when they transact in an amount above a threshold. Therefore, CDD is required only when the amounts being transacted exceed the thresholds applicable to respective sectors (see criterion 10.2 in the TCA). Larger MSBs indicated they maintain basic information for recurrent customers and have certain monitoring measures in place (e.g., group transactions carried out by the same customer in order to detect structured transactions and/or subject customers to a cap of the value transacted within a month). Small MSBs have less sophisticated controls.

279. Banks, brokerage firms, insurance companies, and other large FIs appear to be implementing the requirement to risk categorize customers, but questions remain regarding the robustness of their methodologies and the resultant risk ratings they generate. Although it is not required to

consider certain factors when risk rating customers, larger firms have developed methodologies to risk categorize customers. The methodologies used are based on multiple parameters including type of customer, geographical region, products, and services (e.g., involvement in international transactions or cash transactions). In practice, high-risk customers often include MSBs, certain DNFBPs, and other entities categorized as VAs (real estate developers, casinos, pawn shops, etc.). However, both the CNBV and an external auditor noted that the methodologies do not often appear sufficiently robust to reasonably reflect customer risk profiles. In fact, the amendments to the regulations applicable to several sectors under CNBV purview including banks issued in February 2017, which will take effect in the coming months, represent an effort to address this issue by imposing an explicit obligation for entities to carry out risk assessment of their operations. Although some non-core FIs such as MSBs also indicated that they risk-rate their customers, the approach taken seems far less sophisticated and focused primarily on geographical factors.

280. FIs are applying some enhanced measures to customers rated as high risk, but there are doubts about the adequacy of such measures. FIs are required to have controls based on level of risks, and appear to be applying specific enhanced measures required by regulations, including obtaining a manager's approval before establishing the business relationship, to obtain additional information on origin and/or destination of funds and the nature of business relationship, and to review their risk profiles at least twice a year. Despite the lack of a specific legal requirement to subject activities of high-risk customers to enhanced ongoing monitoring, banks, and other large firms indicated that they subject these customers to enhanced monitoring by adjusting the parameters in the alerting system (e.g., lowering the threshold for alerts, setting additional special parameters). However, an external auditor noted that the alert systems of some FIs including large ones are not properly calibrated to capture high-risk customers' activities. MSBs interviewed appear to be implementing such measures in practice, but both the approaches to customer risk categorization and enhanced measures are less developed than core FIs.

281. While DNFBPs appear to be identifying their customers, they rarely do so for beneficial owners. In fact, their legal obligation is limited to asking customers about the beneficial owner(s) and obtain information on them to the extent that customers provide such information. They are not required to assess risks posed by customers or to perform enhanced CDD where risks are higher. In general, measures taken beyond basic CDD appear very limited. They are aware of and appear to be implementing the requirements on record keeping. Specifically:

- **Notaries** obtain identity information from customers and check its authenticity. When they have doubts about the truthfulness of the information provided, they conduct further inquiries and obtain additional information as needed, but generally they do not seek to determine who the beneficial owners are.
- As discussed above, **lawyers and accountants** generally appear to have a low level of awareness of their AML/CFT obligations. Though the law firm the team spoke to identifies their customers, the extent to which this is the common practice of lawyers especially those who are not a member of an association cannot be established in light of the weak oversight by SAT (see Chapter 6).

- **Real estate agents** appear to be identifying their customers, but again do not seek to identify beneficial owners beyond accepting the individual customers' self-declaration or obtaining information on legal ownership of customers who are legal persons.
- **Casinos** identify customers when receiving payments from and paying customers. Sector representatives met indicated that their firm has also instituted other risk mitigating measures such as restricting cash transactions above a threshold, and not dealing in foreign currencies. However, it is impossible to establish to what extent this is the common practice of the sector.

282. FIs and DNFBPs appear to be aware of and fulfilling their obligation to refrain from opening accounts or carrying out transactions when CDD required under the Mexican legal framework cannot be fulfilled. Typically, this happens when some required information cannot be obtained from the customer. FIs and DNFBPs identify and verify their customers by obtaining official identity documentation from the customer. However, fake IDs pose a challenge notably for MSBs and DNFBPs who do not always have the tools and/or sources of information to verify authenticity of such documents.

Application of Specific CDD requirements

283. The challenge in identifying business relationships and/or transactions involving PEPs as beneficial owners is a concern in particular of banks as they are most attractive to PEPs. In practice, many FIs rely on commercial databases to identify PEPs. For domestic PEPs, while there is a public portal where names of certain senior officials at federal and state levels are published,[65] senior military officers, executives of state-owned corporations and officials at the municipal level are not considered as domestic PEPs thus are not subject to similar transparency. Entities are not required to determine whether the beneficial owner of a customer is a PEP be it foreign or domestic. This gap in the framework, combined with the deficiencies in identifying beneficial owners discussed above, make it difficult for FIs to identify domestic PEPs that use proxies and to monitor their activities, which the CNBV acknowledges is a challenge.

284. While core FIs are aware of their obligations regarding foreign PEPs and subject them to enhanced monitoring, as mentioned above, their treatment of domestic PEPs is not commensurate with the threat of corruption. Except for a few FIs which indicated they generally categorize domestic PEPs as medium- to high-risk, the majority of FIs met including large firms categorize most of domestic PEPs (e.g.: 99 percent as indicated by one large bank) as low risk, reflecting their lack of understanding of ML threats of corruption. As a result, they do not obtain additional information on the origin and destination of funds and the intended nature of the business relationship or require manager's approval for establishing such relationships. They indicated that this rating could nevertheless be reconsidered and adjusted as necessary if they detect transactional behaviour that is not consistent with their risk profile. Some FIs indicated that they have set special parameters for domestic PEPs in their alert systems even if they are not considered high risk. A life insurance company indicated that it seeks to determine whether beneficiaries are PEPs (foreign or domestic) and if so, subject those relationships to enhanced monitoring, although such measures are not legally required. However, discussions suggest this is not a common practice of the insurance sector. Overall these controls are not commensurate with the risks from corruption.

[65] www.gob.mx/cms/uploads/attachment/file/46540/Personas_Politicamente_Expuestas_Nacionales.pdf

285. DNFBPs are not subject to any specific requirements related to PEPs. Although a few firms noted that domestic PEPs often use proxies to hide their identity, there is no evidence they are implementing measures to address this concern.

286. Banks and brokerage firms appear to be implementing AML/CFT requirements regarding wire transfers, as well as additional measures that go beyond their legal obligations. Banks that were interviewed generally consider wire transfers as a high-risk product. Specifically, banks indicated that they (i) when acting as the ordering institution, include the beneficiary's name and account number, which is required for an MT 103 message; (ii) when acting as the intermediary or beneficiary institution, screen transfers that lack information including that on the beneficiary; and (iii) take actions upon detection of wire transfers lacking information—either rejecting transfers or requesting missing or invalid information from the institution from which the transfer was received. The authorities indicated these measures, though not mandatory, are common practice of banks, but this cannot be verified. Some brokerage firms also offer money transfer services through banks—often within the same financial group, but only to customers of brokerage services. Such operations are more limited in terms of size, countries of origin or destination (some of them generally do not conduct wire transfers involving high-risk countries), and purpose of transactions. They review the completeness of information accompanying transfers and reject those lacking information.

287. Banks which offer cross-border correspondent banking services appear to have controls in place to manage risks arising from such relationships. Faced with increased pressures from foreign correspondent banks, banks in Mexico tend to be cautious in offering correspondent banking services to foreign respondent banks. For instance, one bank provides such services only to foreign banks within the same group, and the services are offered only to those banks that do not allow direct access to its services by the respondent banks' customers.

288. FIs generally demonstrate good awareness of the call from the FATF and pay special attention to business relationships and transactions with persons in high-risk jurisdictions. The FIU distributed such lists via respective supervisors through emails. Core FIs and MSBs indicated that they do not deal with persons—whether natural or legal—from countries for which the FATF calls for counter measures. Some have also developed their own list of additional high-risk countries with which they do not conduct business. For transactions involving jurisdictions with strategic deficiencies identified by the FATF, FIs indicated they subject transactions involving these jurisdictions to enhanced monitoring by, for instance, developing special parameters or lowering the threshold for alerts to be generated. In addition, FIs (primarily banks, brokerage firms, and money remitters) filed certain types of transactions with the FIU (see table below) in response to a notice issued in August 2015 requiring systematic reporting of transactions concerning countries considered high-risk by the authorities. DNFBPs are not required to apply enhanced measures to business relationships or transactions related to high-risk countries.

289. FIs appear to have mechanisms in place to implement TFSs, but they have not had any matches with the UN sanctions lists, while the situation is less clear with respect to DNFBPs. Under the Mexican legal framework, entities are obliged to identify natural and legal persons on UN sanctions lists and upon any match, immediately block their accounts and transactions and report to the FIU within 24 hours. In practical terms, UN sanctions lists and FIU's BPL have been incorporated in entities' alert systems. The compliance officer then takes the necessary steps to block the accounts and transactions and report to FIU within 24 hours. MSBs interviewed indicated that they do reviews on a daily basis against the UN list and not in real time, which has negative impacts on the

effectiveness of their implementation of TFSs. While most DNFBPs indicated they have procedures to screen customers against the UN sanction lists, in light of the weak oversight, it is unclear whether these measures are being implemented effectively by the sectors/professions as a whole. Lastly, for all sectors, the deficiencies in identifying beneficial owners and monitoring their activities discussed above also negatively weigh on the effectiveness of implementation of TFSs.

Reporting obligations and tipping off

FIs

290. The basis of reporting obligations of FIs is somewhat blurred between suspicious and unusual. Under the Mexican legal framework, the reporting obligations that relate to suspicious transactions comprise two components:

- *"Unusual transactions"* (referred to as "UTR/STRs" hereafter) are defined to mean transactions that may be related to ML/TF. For the purpose of identifying UTR/STRs, FIs are required to consider a set of criteria separately or jointly: one of them is suspicion of ML or TF, others are either specific scenarios that are deemed unusual (e.g., "the unusually high amounts, the complexity and unusual modalities" or involvement of high-risk countries) or factors that entities should consider when determining whether a transaction is unusual or not (e.g., transactional behaviour of other clients who have similar background).
- *"24-hour reports" ("24h reports")*—when an FI has "information based on evidence or concrete facts" that the transaction may be related to ML or TF, it should file a report with FIU within 24 hours from the moment it becomes aware of such information.

291. Although the requirement to file UTR/STR refers to "suspicion," the term "unusual transaction" used in the regulation combined with the unusual indicators provided therein have caused some confusion about the nature of the reporting requirement (i.e., how much analysis is required of transactions falling within those indicators). In contrast, the 24-hour reporting obligation requires greater certainty than mere suspicion to report. FIU's guidance of 2013 indicates that only transactions that match with sanctions lists should be filed as 24-hour reports.[66] In practice, FIs use this vehicle primarily to file transactions that match with UNSCR lists (though they have never had a match), FIU, and other sanction lists or those related to information requested by the PGR on persons being investigated. Any other 24-hour reports filed by FIs are typically based on unverified anecdotal evidence (media reports pointing to certain persons being involved in ML or crimes).[67] There are very few UTR/STRs related to TF, consistent with FIs' view that TF risks are low.

292. The FIU has noted a general improvement in the quality of FIs' reporting in particular of banks. According to the FIU, the quality of reports from banks has improved significantly in the past

[66] FIU's guidance on 24-hour reporting issued in February 2013 clearly sets out that "Suspicious Transactions Reports classified as '24 hours Reports' are those that include individuals or entities that appear in official lists of persons associated with any activity relating to offenses under article 139. 148 Bis or 400 Bis of the Criminal Code or with organised crime, press releases or other information from international organizations or national or foreign competent authorities for the prevention, investigation and prosecution of offenses […]."

[67] For instance, according to the NRA, in the period of 2013–2014, more than 95 percent of 24-hour reports filed by banks were based on "wrong scenarios" and generally of poor quality.

few years. Brokerage firms and insurance firms are also improving. For instance, thanks to the outreach and training provided by FIU, defensive reporting by insurance companies is being addressed effectively. In comparison, more progress is needed by MSBs. According to the FIU, the high level of reporting from money remitters (see table below) is due to errors made by two entities. The level of reporting by exchange centres seems too low in light of the large number of entities and their risk profile. In some non-core deposit taking FIs (e.g., SOCAP), there is a possibility of defensive reporting. In addition, the level of reporting appears fairly uneven across institutions within some sectors. For instance, reports filed by the top five entities within each sector in 2016 constitute a large percentage of the total filed by the whole sector: banks (75 percent), brokerage firms (89 percent), and exchange centres (70 percent).

293. The authorities have expressed some concerns about quality and adequacy of analysis supporting the UTR/STRs across all sectors. FIs must use automated system to monitor transactions and generate alerts as a first step for identifying UTR/STRs. The parameters are set by entities based on the indicators set out in the regulation and in their own policies. Discussions with the FIs suggested that UTR/STRs were triggered most often by the use of cash, inconsistency between customer profile and transactional behaviour, and the high-risk locations of the customer or transaction. In general, large banks' systems seem more robust while the concerns are greater with respect to smaller banks and non-banks including MSBs. This is consistent with CNBV's observations. The CNBV has noted that the parameters set by some FIs are not very reasonable, so that either too few or too many alerts are generated so some FIs need to calibrate their systems to address this issue. While in the former case, some reports that should have been reviewed were not flagged, in the latter case the quality and promptness of analysis may have been compromised (see more discussion below). Along similar lines, the FIU would like to see improvements on quality of reporting, notably in relation to inadequate analysis and omission of critical information. In an effort to improve the quality of reports, the FIU has been providing detailed feedback to individual FIs as well as at the sectorial level. The amendments to the regulations in September 2015 to allow banks and other FIs under CNBV oversight an additional 30 days to file UTR/STRs was another effort to improve quality of reports.

294. UTR/STR reporting by large firms is not always as prompt as it should be. FIs are allowed 60 days to file an UTR/STR after an alert is generated by the system or a staff member while there are no requirements as to how much time they have to file a report after the forming of a suspicion. For all FIs with 25 or more employees, results of analyses conducted by compliance staff on alerts triggered must be submitted to the FI's CCC for consideration and a decision on whether to file a report. Although the frequency of CCC meetings can vary between every 10 days to every 30 days, in practice, banks, brokerage firms, and other large firms only hold their CCC meetings once a month. Furthermore, they do not—and are not expected to—report urgent or clearly suspicious transactions arising from alerts and subsequent analysis as 24-hour reports that do not require a decision of the CCC. As such, regardless of level of urgency of and certainty about the suspicion, it generally takes large firms 30 days or longer (up to 60 days) to file an UTR/STR after an alert is generated, consistent with the data provided by FIU. More importantly, the lapse of time between the formation of a suspicion by the compliance officer and the filing of a UTR/STR can be up to 30 days. This lack of promptness undermines the usefulness of UTR/STRs for the application of provisional measures to seize POC. As mentioned above, the 2015 amendments to the regulation allow banks an additional 30 days to analyse the alerts, but the extension can only be applied when certain criteria are met, which the FIU has set out in a guidance note. In practice, most banks have

not availed themselves of this extension, and only a small number of reports (three percent according to the FIU) have been filed more than 60 days after an alert was flagged.

Table 31. **STRs Filed by FIs**

FIs	2014		2015			2016		
	UTR/STR	24h Reports	UTR/STR	24h Reports	Reports upon FIU request	UTR/STR	24h Reports	Reports upon FIU request
Retirement Funds Administrators	640	1	622	0	0	341	4	0
General Deposit Warehouses	1	0	10	0	0	36	0	0
Development Banking	20	3	50	5	10	50	9	59
Banks	57 388	3 674	51 683	4 421	8 524	61 008	5 964	46 386
Brokerage Firms	934	136	563	107	17	625	178	11
Exchange Houses	14	5	42	6	0	29	314	0
Exchange Centres	2 451	18	956	17	0	221	53	1
Bonding Institutions	31	0	7	0	0	3	0	0
Insurance Institutions and Mutual Societies	2 403	80	2 048	108	2	1 467	101	0
Cooperative Savings and Loans Companies	12 956	28	16 052	26	0	18 200	41	0
Share distribution company of investment societies	1 068	0	113	0	0	60	2	0
Regulated Limited Purpose Finance Companies	3	0	0	0	0	0	0	0
Regulated Multiple Purpose Finance Companies (SOFOME)	1 124	94	3 096	251	77	9 178	309	696
Unregulated Multiple Purpose Finance Companies (SOFOME ENR)	5 436	7	4 080	17	0	2 874	18	0
Popular Savings and Loan (SOFIPO and SOFINCO)	116	6	310	77	4	807	51	0
Operating company	137	9	211	18	0	192	8	0

FIs	2014		2015			2016		
	UTR/STR	24h Reports	UTR/STR	24h Reports	Reports upon FIU request	UTR/STR	24h Reports	Reports upon FIU request
of investment societies								
Money Remitter	59 875	15	70 040	50	3 437	29 856	966	32 935
Credit Unions	531	0	546	10	0	508	25	0
Total	***145 128***	***4 076***	***150 429***	***5 113***	***12 071***	***125 455***	***8 043***	***80 088***

295. There are mechanisms to implement the prohibition of tipping-off. FIs appear to be implementing the requirement to file "internal concerning reports" with the FIU - this mechanism has been in place since 2004, where any act of board members, executives or staff members could contravene or violate the AML/CFT obligations—this includes tipping-off—shall be reported to the FIU. According to the FIU, six cases of tipping-off were reported during 2015–2016, and as a result, the FIs fired their employees involved in tipping-off. It is however not possible to establish the extent to which these measures are sufficient to effectively prevent tipping off.

DNFBPs

296. Reporting by DNFBPs is very low. DNFBPs' reporting obligations are based only on the 24-hour regime similar to that for FIs, but subject to a threshold. Unlike FIs, they filed 24-hour reports based on not only matches with sanctions lists but also suspicion of ML despite the FIU guidance. As illustrated in the table below, while reports from notaries and real estate sector have increased in 2014–2016, the reporting level of notaries in particular does not seem commensurate with their ML risk profile. Consistent with their perception that the real estate sector represents a high ML risk, most reports filed by notaries are related to real estate transactions. However, very few reports arise from formation of companies which may be due to notaries' lack of appreciation of the risks related to misuse of legal persons, and a deficient legal framework regarding the identification of beneficial owners. While real estate agents are reporting, the FIU noted that quality of reports needs to be improved. Reporting by other sectors than notaries and real estate is extremely low (e.g. lawyers and accountants have not filed a single STR in the past three years). This may represent a lack of understanding of risks and/or low level of awareness of their AML/CFT obligations. Lastly, for each sector, the reports below are attributable to the operators that have registered with the FIU, which constitute only a portion of each sector/profession (see **Table 3** in Chapter 1).

Table 32**. 24h STRs Filed by DNFBPs**

DNFBPs	2014	2015	2016
Real Estate Agents	20	102	355
Gambling and Lottery	0	2	1
Precious Metals and Stones Dealers	0	0	0
Notaries	10	6	73

DNFBPs	2014	2015	2016
Lawyers	0	0	0
Accountants	0	0	0
Total	***30***	***110***	***356***

Internal controls and legal/regulatory requirements impending implementation

297. The framework governing internal controls of individual FIs is generally comprehensive and being implemented. FIs are required to embed the required AML/CFT measures in policies and procedures. Such measures are subject to annual internal or external auditing to check their compliance with the requirements, but the audits have not extended to cover soundness of ML/TF risk management. The CNBV in its off-site supervision and on-site inspection has noted shortcomings in the internal control systems of all sectors under its purview in the past few years, but again it is difficult to identify any trend except that more shortcomings are identified in the smaller firms (popular sector and MSBs) than in the core FIs. In the insurance sector, CNSF noted shortcomings with regard to corporate governance including the CCC and the automated alerting system. Overall a key challenge faced by all sectors is to keep up with and adapt to the constantly changing regulatory framework.

298. Though not required, financial groups have developed and implemented AML/CFT policies at the group level to the extent possible under the legal framework. Financial groups in Mexico are permitted to share information for AML/CFT purposes among members of the group. Representatives of a financial group indicated that each member of it is supervised as an individual entity for compliance with AML/CFT requirements, but AML/CFT policies have also been developed at the group level. Individual members have their own policies and procedures in line with the group policies and tailored to their respective activities. For instance, the frameworks for risk categorization of customers and alerting systems are set out in group policies. The frameworks are then customized and applied by individual members. Compliance officers of individual entities also report to the compliance officer of the group. Groups that comprise two or more FIs, as well as non-financial entities are not recognized as financial groups and are not permitted to share information among its financial entity members for AML/CFT, hindering their ability to manage ML/TF risks at the group level.

299. In contrast, there is no evidence to suggest that DNFBPs generally have as robust internal controls. A few representatives of the larger firms interviewed seem to have internal controls for AML/CFT. For instance, one large casino has policies on CDD and reporting as well as a compliance officer overseeing implementation. However, in light of the weak oversight over DNFBPs and their general low awareness of AML/CFT obligations, major improvements will be needed in most firms.

300. **Mexico has achieved a low level of effectiveness for IO.4.**

CHAPTER 6. SUPERVISION

Key Findings and Recommended Actions

Key Findings

- The financial sector supervisors have a good understanding of the ML risks within the sectors for which they are responsible and have developed sound models that allow them to differentiate the risks between different institutions. The understanding of TF risks is less developed.
- With respect to the DNFBPs, the basis for the SAT's appreciation of ML risk, especially between different entities in the same sector, is more limited. The SAT has no authority to monitor DNFBPs for CFT compliance and there is no evidence of a substantive alternative mechanism being in place.
- Generally, the due diligence procedures relating to the licensing and registration of financial activities are sound. However, there are serious weaknesses in the procedures for licensing casinos and there is no requirement for lawyers and accountants to be members of a professional body that might oversee professional and ethical standards.
- The financial sector supervisors have all developed a reasonable risk-based approach to framing their annual program of on-site inspections, and the inspection procedures are increasingly becoming risk-based. The SAT has undertaken very few inspections, relative to the number of entities under its remit and there is little evidence to suggest that these are genuinely risk-based.
- While the CNBV undertakes consolidated AML/CFT supervision of financial groups, it has no authority to apply a similar approach to "mixed groups," even where they contain multiple FIs, including foreign operations.
- Sanctions, generally, are not being applied in an effective, proportionate, and dissuasive manner. The extended time taken to finalize the sanctions process, following an on-site inspection, means that most penalties applied up to end-2016 were based on a legal framework that has now been amended, and which contained low financial penalties. The SAT has only been applying the minimum possible penalties, as it has not yet developed a methodology for applying differentiated fines that will stand up before the courts.
- Generally, there are concerns about the resources available to AML/CFT supervision in the context of the sectorial and institutional risk profiles. The resource constraints are especially acute in relation to supervision of the DNFBPs.

Recommended Actions

Mexico should:

- Review the resources applied to AML/CFT supervision in the light of the risk profiles emerging from the models developed by the supervisors. Immediate attention should be applied to the SAT, which is significantly under-resourced by any measure.
- Consider the option of requiring entities supervised by the SAT to submit AML/CFT audit reports

undertaken by either external or internal auditors.

- Develop a more focused approach to assessing TF risk within the supervisors' risk models, and apply more specific attention to TF risk in the inspection procedures. Ensure that the DNFBPs are subject to substantive CFT compliance inspections by either the SAT or another competent authority.
- Undertake a review of the risk assessment of the DNFBP sectors in order to reconcile the apparent differences between the results of the NRA and the conclusions emerging from the SAT's risk model.
- Undertake a review of the financial penalties available to supervisors to establish whether they can realistically be applied in a manner that is effective, proportionate and dissuasive, especially in relation to larger FIs. Immediate action should be taken by the SAT to establish a sustainable methodology for applying sanctions other than at the minimum level.
- Take measures to speed up the process of finalizing the application of financial penalties.
- Provide for a mechanism under which the CNBV may exercise consolidated supervision over FIs within "mixed groups" to ensure group-wide AML/CFT compliance. At a minimum, this should involve regular joint meetings by the relevant supervisors with group compliance officers in each mixed group.
- Publish the findings from the CNBV's thematic reviews in order to disseminate widely the supervisors' views on what constitute good and bad practices in relation to the issues examined.
- Complete the delayed passage of legislation through Congress to require that lawyers and accountants be members of professional associations with responsibility for ensuring compliance with professional and ethical standards, including AML/CFT compliance.
- Complete the delayed passage of legislation through Congress to update the regulation of casinos, particularly in relation to the SEGOB's powers to undertake proper due diligence on all shareholders, directors, and operational managers.

301. The relevant Immediate Outcome considered and assessed in this chapter is IO.3. The recommendations relevant for the assessment of effectiveness under this section are R26–28, R.34 and 35.

Immediate Outcome 3 (Supervision)

302. AML/CFT supervision of the financial and DNFBP sectors falls to four main agencies: the CNBV, the CNSF, the CONSAR, and the SAT. The CNBV is responsible for the licensing, registration, and supervision of the vast majority of financial activities outside the insurance and pension fund sectors. The 2013 AML law extended the basic AML/CFT framework to 15 VAs that are supervised by the SAT. These activities include all-but-one of the FATF-defined DNFBPs (TCSPs do not operate as a specific profession in Mexico), and cover some elements that are considered as financial activities by the FATF (e.g., credit and pre-paid card issuers). More significantly, in terms of the impact on available resources, the law also captures a number of activities outside the scope of the FATF standards, including real estate developers, lotteries, sales of motor vehicles, marine vessels and aircraft, art dealers, and suppliers of armoured vehicles.

Licensing, registration and controls preventing criminals and associates from entering the market

a) Financial Institutions[68]

303. The licensing and registration requirements for FIs are laid down in the various regulatory laws, but have broadly common requirements with respect to the fitness and propriety of shareholders, directors, and senior management. Overall, the implementation of the system is relatively robust.

304. In each case, the respective regulators carry out enquiries of relevant federal agencies to establish that the applicant (including the beneficial owner) has not been subject to any sanctions, is not under investigation for criminal or regulatory breaches, and is not barred from employment within the federal government. Where relevant, enquiries are also made of foreign regulators. In addition, the licensing process involves the regulators establishing the source of funds being invested by shareholders. Proposed changes of shareholding or BO that result in control of the entity passing above certain thresholds (typically 5 and 20 percent) must be reported to the regulators, who follow the same due diligence procedures as for the initial license application. Monitoring for unreported changes of shareholding, BO or management takes place through the on-site inspection process. In the case of exchange centres and money remitters (which are subject to registration rather than licensing), only the managers and those persons holding a controlling interest of 50 percent or more are subject to the vetting process, but the process of due diligence by the CNBV is broadly similar to that for the licensed sectors.

305. In recent years, the regulators have rejected a number of license applications in the financial sector (see **Table 33**), but none of these have been related directly to AML/CFT issues.

Table 33. **License Applications Processed: 2010–2016**[1]

Sector	Received	Approved	Rejected
Banking	15	16	0
Securities	14	13	0
Popular banking	189	111	23
Insurance	21	19	3
Exchange centres, money remittance and unregulated finance companies	3 828	3 178	132

Table Note:
1. The apparent inconsistencies in the totals in the three columns are caused by timing differences

306. The CNBV has developed a comprehensive framework for identifying unregistered money remitters: (i) it maintains a public mailbox through which it receives complaints from the public; (ii) it routinely receives relevant information from other government agencies on suspicious activity; and (iii) it undertakes research into geographical areas where it considers that there might be a higher risk of informal remittances taking place. Based on this input, it carries out inspections and undertakes mystery-shopping exercises. In addition, there is a particular focus on those entities that

[68] The sections on "FIs" within this chapter do not include the small number of financial activities that are regulated by the SAT.

have not sought to re-register at the end of each year, to ensure that they have genuinely ceased providing remittance services.

b) DNFBPs

307. The DNFBPs are required to register with the SAT. Prior to doing so, the applicant must first be registered with the RFC and obtain an advanced digital signature, which involves the submission of information relating to the partners, shareholders, or associates of the business. Subsequent registration with the SAT requires the provision of additional information on the principal (in the case of a sole trader) or the person responsible for compliance (in the case of a legal person). Some categories of DNFBP require separate operating licenses or approvals granted by other governmental bodies.

308. Notaries are licensed by individual state governments and are subject to vetting for personal and professional integrity. Over the years, a number of notaries have been barred from practicing, due to involvement in criminal activities.

309. Lawyers and accountants must obtain a professional license issued by the Federal Ministry of Education, but are not subject to separate regulation for professional or ethical standards by a self-regulatory body. While professional colleges and associations exist for both sectors, membership is not compulsory. Of the 450 000 independent lawyers practicing in Mexico, only about 14 000 are members of one of the seven colleges. A bill to require mandatory membership of a relevant body for both professions was tabled in parliament some two years prior to the assessment, but has remained log-jammed in the Senate.

310. Gambling and lottery businesses are licensed by the SEGOB, but supervised for AML purposes by the SAT. The licensing process is based on outdated legislation (1947), and involves little more than an administrative procedure for checking the completeness of documentation provided by applicants. The SEGOB has no statutory powers to investigate the background of proposed shareholders and directors, and is largely reliant on what is, in effect, a self-certification process by the applicants. Moreover, the applicants are not required to submit details of senior staff who will manage the day-to-day operations of the casinos. Casinos based on ships operating out of Mexican ports are not covered by the legislation. A new bill to bring the requirements more into line with current standards has been before parliament for approximately two years, but has so far failed to pass the upper house, the Senate.

Supervisors' understanding and identification of ML/TF risks

a) Financial Institutions

311. In general, there is a good understanding among the financial supervisors of the risks in the particular sectors for which they are responsible, although this is more developed in relation to ML than for TF. Each supervisory authority has, to some degree or other, started to develop risk-based models for categorizing individual institutions and businesses. However, the sophistication of the models and the extent to which these have been employed for an extended period varies from one supervisory authority to another. The conclusions on sector risk are broadly similar to those in the NRA. The multiple banking groups, brokerage houses, and exchange houses have been classified as highest-risk. At the other end of the spectrum, insurance companies, pension funds, and multi-purpose finance companies are perceived as particularly low-risk. Exchange centres and money remitters fall into the mid-range. In general, these classifications appear reasonable, given the composition and structure of the financial sector.

312. The CNBV is the most advanced of the supervisors in devising and employing risk models for categorizing individual institutions. Since 2015, it has employed the CEFER model, which is designed to assess all forms of supervisory risk (solvency, liquidity, AML/CFT, etc.) in a single tool. AML/CFT risk is deemed to be a subset of legal and reputational risk and accounts for seven percent of the overall risk weighting. In order to determine the specific AML/CFT input to the CEFER, the CNBV has developed a separate set of models that are used as the basis for supervision of AML/CFT compliance. For credit institutions, the CNBV now employs a matrix that assesses inherent risk through three inputs (customer base, currency/monetary instruments employed, and geographic profile of the institution), offset by six categories of mitigating factors (corporate governance, risk management, policies and procedures, internal controls, compliance and training). The key inputs are derived from AML/CFT reporting forms (R24E) submitted by the credit institutions on a quarterly basis, supplemented by qualitative information from on-site inspections and other sources. The matrix takes only limited account of TF risk factors, as it focuses primarily on transactions involving those countries that are deemed to be high-risk for TF. It would benefit from incorporating a broader range of relevant factors, specifically by considering the inherent vulnerability to misuse of the different types of institution through the products and services that they provide and the relationships that they maintain.

313. For most other types of institution, the CNBV has developed a second AML/CFT model that relies on reports already filed with the FIU (e.g., on cross-border wire transfers, cashiers' checks, and USD cash), rather than on a specific supervisory reporting framework. This route was taken in order to minimize the cost-burden on the institutions, but it does allow the supervisors to develop a risk score on a basis that is similar to that for credit institutions. With respect to exchange centres, money remitters, and unregulated multi-purpose finance companies, the CNBV has only recently developed a further risk matrix that draws on information derived from a semi-annual reporting obligation imposed on the institutions. Both of these models appear to provide a reasonable basis for assessing inherent risk, in particular, but would also benefit from more explicit reference to TF issues.

314. The following table illustrates the conclusions and evolution of the CNBV's assessment of AML/CFT risk for the institutions within the various sectors.

Table 34. **CNBV Classification of Institutions According to ML/TF Risk (2015–2016)**

Sector	Low		Medium		High		Very High	
	2015	2016	2015	2016	2015	2016	2015	2016
Credit Institutions	27	22	19	24	5	8	0	0
Exchange Centres	435	496	536	380	229	248	15	119
Exchange Houses	1	1	3	0	4	7	0	1
Money Remitters	14	25	13	14	12	12	12	0
Brokerage Firms	19	22	14	2	3	10	0	2
Regulated Multi-Purpose Finance Companies	8	31	26	2	0	20	0	2
Unregulated Multi-Purpose Finance Companies	185	536	771	426	369	339	118	203
Cooperative Savings and Loans	13	24	131	1	1	126	0	2
Credit Unions	50	54	42	0	0	37	0	2
Financial Cooperative Associations	34	25	11	0	0	15	0	4
General Deposit Warehouses	13	15	0	1	1	1	0	0
Investment Companies	41	39	0	0	0	6	0	1
Total	**840**	**1 290**	**1 566**	**850**	**624**	**829**	**145**	**336**

315. An analysis of this data suggests that there has been a steady migration over the years towards higher-risk categorizations in most sectors. However, the CNBV attributes this movement to the development of more sophisticated risk models (especially in relation to credit institutions) and an improvement, since 2015, in the quality of information that is available as inputs for both inherent risk and mitigating factors. It does not believe that there has been a marked shift in the underlying risk profiles of the sectors.

316. The CNSF uses a five-scale risk matrix developed from several input variables, which include inherent risk and mitigating factors similar to those used by the CNBV. The material is drawn from a variety of sources, including reports by the institutions and input from the FIU and other government agencies. The resulting matrix, which is reassessed each quarter, places institutions into one of five levels of supervisory attention. Since insurers are covered by the AML/CFT requirements with respect to all their products and services, the inherent risk element of the matrix factors in a broad range of issues, although the supervisors recognize that long-term life and investment products represent the bulk of the material risk for AML/CFT purposes. As with the CNBV models, there appears to be no explicit attention paid to TF factors.

317. The following table illustrates the results of the CNSF's AML/CFT risk assessment for the insurance sector. As is the case with the CNBV models, the fluctuations in the number of institutions allocated to Levels 2 and 3 result from the development of the model, rather than material shifts in the underlying risks.

Table 35. **Number of Insurance Companies in Each Risk Categorization (2014–2016)**

	Level 1	Level 2	Level 3	Level 4	Level 5
2014	7	70	23	0	0
2015	6	51	44	0	0
2016	8	62	28	0	0

318. The CONSAR uses a three-tier risk matrix (low, medium, high) based on three inherent risk inputs (customers, monetary instruments, and geography), offset by various risk mitigants. In practice, the CONSAR recognizes that the core risk within the pension fund sector relates to the voluntary contributions made by individual workers, since these may be made by way of regular or lump-sum payments and can subsequently be withdrawn under certain circumstances. Therefore, the focus of the risk analysis is substantially (and appropriately) on this particular aspect of the pension funds' business.

b) DNFBPs

319. The NRA, based on the FIU's sector risk analysis, groups the 15 VAs into three risk categories, with those involved in the purchase and sale of vehicles, the granting of loans and credit, and the transmission of property rights falling into the highest risk. Gambling and lottery businesses and dealers in precious metals and stones (DPMS) fall into the mid-tier; while notaries, lawyers, and accountants are deemed to be relatively low-risk. The inherent risk factors were based solely on information supplied to the FIU by a relatively small sample of the institutions themselves (14 percent on average), and, in the absence of any previous history of AML/CFT inspections, there was no firm basis for applying a broader range of risk mitigation factors.

320. The SAT has no authority to undertake supervision of CFT compliance. In formulating its assessment of ML risk, the SAT uses the FIU's sector risk analysis as the basis for its own risk model, but supplements this with additional data when looking at the risks associated with individual entities. The additional sources include tax data, information on the specific activities of the entity, and more general background factors, especially geographical location. The SAT allocates one of three risk ratings (high, medium, low) to each entity. The sectorial risk analysis that is emerging from the SAT's model appears to differ, to some material extent, from that produced in the NRA, as shown in the following table.

Table 36. **ML Risk Ratings for Selection of the Vulnerable Activities***

Vulnerable Activity	NRA	SAT
Purchase and sale of real estate	High	High
Gambling and lottery	Medium	Medium
DPMS	Medium	High
Notaries	Low	Low
Professional services (lawyers and accountants)	Low	Medium

* Those entities included with the FATF's definition of DNFBPs.

321. The upgrading of the professional service providers (especially lawyers) to medium-risk in the SAT model appears to be more appropriate than the categorization in the NRA. However, the consistent classification of notaries as low-risk is particularly difficult to understand, given the fundamentally central role of that profession in the creation of companies and the transfer of property rights, both of which are considered to be primary mechanisms through which the POC in Mexico are laundered. Moreover, none of the approximately 4 000 notaries or 2 000 professional service providers are classified as high-risk in the individual entity ratings developed by the SAT. It is difficult to reconcile this with the NRA narrative, which draws on a GAFILAT study of ML in the region and states that "in order to carry out ML, the use of professional services provided by lawyers, accountants and notaries public has been fundamental." The SAT's risk model is still being developed (with a revised version expected in late-2017), but there are clearly aspects that need careful consideration if it is to reflect an accurate picture of ML/TF risks of the sectors and individual institutions.

Risk-based supervision of compliance with AML/CFT requirements

a) Financial Institutions

322. All the financial sector supervisors employ both off-site surveillance and on-site inspections as part of their supervisory programs.[69] The off-site component is focused on regular reports on their activities filed by the institutions. The analysts prioritize their work based on the institution's risk profiles, and the results of the analysis feed directly into the updated risk assessments for each institution. All three supervisors work within the basic framework of an annual program of routine inspections. They have, in recent years, sought to move towards greater standardization of their approach to AML/CFT supervision (through the establishment of an inter-agency coordination group), and this was clearly reflected in the discussions that the assessment team held with each supervisory agency and with the cross-section of institutions that were interviewed. In view of this, and the fact that the CNBV supervises the key, high-risk sectors, the majority of the following analysis focuses on the role of the CNBV, with only brief summaries being provided in relation to the CNSF and the CONSAR.

323. Although the CNBV's specialised AML/CFT risk matrices feed into the broader prudential risk model, the scheduling and targeting of AML/CFT inspections is based solely on AML/CFT factors. Nonetheless, the AML/CFT inspectors work closely with the prudential supervisors in the planning and execution of on-site inspections in order to avoid unnecessary duplication for the supervised institutions, wherever possible.

324. In recent years, the risk scores have been a leading determinant of whether particular institutions should be included within the annual program, but input from the FIU, the PGR, and other agencies (and a need to ensure a minimum frequency of inspections) are also taken into account. However, there remain a number of institutions (especially among the money remitters and exchange centres) that have not yet been inspected on a risk-based approach, although they have

[69] All FIs are also required to produce annual AML/CFT audits, undertaken by either their internal or external auditors. The scope of these audits is defined by regulation, and the results feed into the supervisors' overall risk profiles. While the assessment team discussed the procedures adopted by one of the external auditors providing this function, the team was unable to establish whether the seemingly robust approach adopted by an independent firm would be replicated to the same extent by internal auditors, although, typically, only the larger banks would rely on internal auditors to perform the function. The annual AML/CFT audit requirement does not apply to entities supervised by the SAT.

been subject to routine off-site analysis based on the semi-annual reporting obligations. If applied strictly, the risk matrix would require a large number of visits to these sectors, but the resources available to the specialised unit simply do not allow such a schedule. The CNBV has sought to address this, in part, by undertaking inspections on a sampling basis in order to help ensure that there are no glaring omissions in the scope of its work, but resource availability remains a challenge. In total, the CNBV employs 82 full-time AML/CFT supervisors (plus 17 temporary staff) to cover approximately 3 300 institutions, of which about 2 000 are considered to be medium- to high-risk. In the context of this risk profile, the resourcing levels appear to be low and should be reviewed carefully.

325. Routine inspections with an AML/CFT component (targeting institutions on the basis of the risk matrices) fall into two categories: (i) a specialised AML/CFT review conducted independently or in conjunction with the prudential inspection if the priorities and agendas match; and (ii) a "specific criteria program"[70] undertaken during inspections performed by the prudential supervisors in coordination with the AML/CFT team, in which the supervisors carry out a review of key AML/CFT risks that are specific to each institution. In addition, the CNBV undertakes unscheduled special inspections in a number of circumstances, including when off-site monitoring or intelligence identifies urgent issues for consideration, when follow-up action on previous visits is required, or when a new licensee starts business. A further category of "investigations" can be triggered in cases where there are suspicions that breaches of the law may have occurred or where the authorities need to collect information in the course of a judicial or administrative investigation.

326. Although the primary objective of the routine inspections remains to validate compliance with the technical requirements of the AML/CFT and regulatory legislation, the approach to the work is increasingly drawing on the detailed results of the risk matrices, taking into account, for example, the exact nature of the institution, its market niche, its commercial strategy, the type of transactions performed, and its compliance record. The inspections routinely involve risk-based sampling of customer and other files. Testing for compliance with TFS (which is addressed in Chapter 4 of this report) is achieved by inserting samples of names from the BPLs into the institutions' automated systems to see whether there is a "hit," but there appears to be little focus on TF beyond verifying that institutions have in place automated systems (with documented procedures) for monitoring against the lists.

327. The CNBV has undertaken a number of thematic reviews in recent years, both within and across various sectors. These reviews have covered a range of issues, including the treatment of PEPs and other high-risk customers, BPLs, and nested accounts. The CNBV uses the results of the thematic reviews to provide feedback to institutions through workshops, bilateral meetings and other mechanisms, but the general findings are not published. Publication would provide a valuable opportunity to disseminate widely the CNBV's views on what constitutes good and bad practices within the financial sector.

328. Following the 2014 financial sector reforms, the CNBV now conducts consolidated AML/CFT supervision of what are defined as "financial groups." In the case of financial groups that also have entities supervised by other domestic regulators, the CNBV works through the supervisors' coordination group to exchange information, but it has no authority to conduct joint inspections with

[70] This program replaced (in 2016) the "minimum points" reviews, which involved sampling 15 accounts and any significant activity to establish that the most basic CDD requirements were being met.

other supervisors. In the one case where a bank has an overseas branch (in the U.S.), the CNBV works closely with the foreign supervisor to receive regular reports on the branch's operations.

329. However, the CNBV does not have the legal authority to apply consolidated supervision to several groups that have two or more financial services providers, but where a key focus of the group is on commercial, rather than financial, activities (so-called "mixed groups"). One such group, for example, has multiple FIs in Mexico, together with several banks in neighbouring countries. While the individual FIs within the mixed groups are all independently supervised for AML/CFT purposes, there is no gateway for a formal consolidated approach to supervision, especially to encompass the foreign entities of the one group. At a minimum, it might be expected that the domestic supervisors would conduct joint meetings with group compliance officers of the mixed groups to ensure that group-wide policies and procedures are being pursued, but no such meetings take place.

330. The CNSF constructs its annual inspection program based on four key considerations: (i) recent corporate changes within the institution; (ii) the extent to which life policies and savings products are offered; (iii) the previous cycle of visits; and (iv) whether the institution should be given priority on the basis of having an AML/CFT risk rating in the three highest categories of its five-category matrix. It sets an objective of achieving 18–22 inspections per year, using its nine specialist AML/CFT inspectors. As a framework for the inspections, the CNSF has developed a standard "supervision strategy" that considers a range of risk factors (CDD, STR filing, identification of high-risk customers, and history of compliance) and defines the process to be followed to review the key features during the on-site visit. The primary focus, throughout, is on long-term life and investment products, in recognition of the fact that these pose the highest risk for the sector, even though the AML/CFT obligations extend to all insurance business.

331. The CONSAR conducts an inspection of each pension fund administrator at least every two years. Its risk matrix is a component in targeting the inspections, but follow-up on the previous inspection and immediate input from the FIU appear to play equally prominent roles in focusing both the annual program and the scope of work.

332. The following table shows the number of AML/CFT inspections undertaken across the financial sector in the period 2014–2016.

Table 37. **AML/CFT Inspections of Financial Institutions Undertaken in Period 2014–2016***

Sector	2014			2015			2016		
	Ord.	Spec.	Inv.	Ord.	Spec.	Inv.	Ord.	Spec.	Inv.
Banks	5	3	0	5	7	0	5	3	1
Brokerage Firms	1	2	0	2	2	0	2	1	0
Exchange Centres	16	2	4	22	6	0	26	6	0
Exchange Houses	0	2	1	1	0	0	1	0	1
Money Remitters	3	0	0	4	0	0	6	2	0
Regulated M-P Finance Companies	2	0	0	1	0	0	1	0	0
Unregulated M-P Finance Companies	7	3	0	6	2	0	8	2	0

Sector	2014			2015			2016		
	Ord.	Spec.	Inv.	Ord.	Spec.	Inv.	Ord.	Spec.	Inv.
Other CNBV Entities	6	2	0	5	4	0	7	1	0
Total by CNBV	40	14	5	46	21	0	56	15	2
Insurance Companies	13			17			17		
Bonding Institutions	5			2			2		
Other CNSF Entities	1			3			3		
Total by CNSF	19			22			22		
Pension Fund Managers	8			7			8		
Total by CONSAR	8			7			8		

* Classified according to three categories: ordinary, special, and investigation.

333. The application of a truly risk-based approach to supervision of FIs is clearly evolving in the right direction. The procedures developed by the CNSF and the CONSAR appear to be significantly less developed than is the case for the CNBV, but this is in line with risk profiles of the institutions that they each supervise, and does not pose a material vulnerability for the integrity of the financial system. The FIs report that, while a primary focus of the supervisors' inspections still appears to be on technical compliance with the legal obligations (estimated at 60–70 percent of the inspection process by one interviewee), they have noticed a marked shift in recent years towards a meaningful dialogue with the inspectors on identifying the key risks that need to be covered during inspections. The institutions also confirmed that there had been an improvement in the inspectors' qualitative analysis to complement the more traditional quantitative ("tick-box") approach taken in the past. They felt that the inspectors had a greater awareness of the nuances of individual institutions and were confident in digging deeper into the key issues. The financial sector attributed this improvement, in part, to an apparent greater stability in staffing within the supervisors, thereby allowing the inspectors to gain greater expertise in specialist areas. However, the assessment team remains concerned that the resources applied to AML/CFT supervision may be insufficient to match the overall risk profile of the institutions, such that it may be difficult to maintain an appropriate frequency of inspections for higher-risk institutions.

b) DNFBPs[71]

334. As indicated above, the SAT has no authority to undertake monitoring of compliance with CFT obligations, and there is no structured alternative mechanism in place to address this issue within the DNFBP sectors.

335. In terms of AML compliance monitoring, the SAT employs both off-site analysis and on-site inspections. Off-site surveillance is focused primarily on those entities rated as medium- or low-risk. The process involves the SAT monitoring the statutory notices that the entities must file relating to the transactions that they undertake, the objective being to identify potential non-reporters and to

[71] Much of the substantive information on the SAT's risk-based approach to supervision was provided to the assessors very late in the assessment process and several months following the on-site visit. Therefore, it was not possible to validate properly the effectiveness of the system during the on-site visit.

pick up discrepancies in the reports. Any issues that arise are pursued through correspondence with the entity.

336. The SAT reports that, in carrying out inspections, it has sought to focus on high-risk entities (especially those involved in the transfer of real estate, and parts of the casino sector), and has undertaken sampling of some, but not all, of the other sectors. However, it is difficult to reconcile this picture with the following table, which indicates that the notaries (classified as low risk in both the NRA and the SAT models) have been subject to the largest number of inspections since 2014, while DPMS (high-risk) have been subject to only three inspections. Moreover, no inspections have yet been carried out with respect to lawyers and accountants (medium-risk under the SAT model). Therefore, it has not been possible to conclude that the inspections are truly targeted on the basis of the risk analysis. In addition, the conduct of the inspections themselves is not risk-based, as the SAT uses a standard inspection process focusing on eleven elements that examiners must review.

Table 38. **AML Inspections of Vulnerable Activities Undertaken by SAT Period May 2014–March 2017**

Sector	Inspections
Gambling and lottery	15
Professional services (lawyers and accountants)	0
Notaries	33
DPMS	3
Purchase and sale of real estate	27
Other SAT entities	40
Total	118

337. At the time of the assessment, the SAT was seriously under-resourced for the scope of the work that it is required to undertake. It had a total of sixteen officials responsible for off-site analysis and on-site inspection of approximately 64 000 business entities and professionals currently on the register.[72] As a result, it has been capable, since 2014, of inspecting less than 0.2 percent of the entities for which it is responsible. Plans have been put in place to train two additional staff in each of the SAT's regional offices, but this is unlikely to result in a concentrated pool of excellence that would allow the SAT to develop its risk analysis and to improve the overall quality of inspections.[73]

338. The severe limitations to the SAT's capacity to undertake inspections represents a material concern for two main reasons: first, it is responsible for oversight of two of the activities identified in the NRA as particularly high risk for ML (transfer of real estate and the incorporation of legal persons); and, second, it is the supervisor for the notaries who are the primary gatekeepers to all transactions involving these two high-risk issues. An essential increase in the SAT's resources might also be complemented by a requirement for the DNFBPs to submit annual AML/CFT audit reports undertaken by either external or internal auditors.

[72] This excludes 18 officials in a separate department dedicated to foreign trade investigation and analysis.
[73] Subsequent to the on-site visit, the SAT undertook a capacity-building exercise under which 677 officials were trained throughout the 67 regions of Mexico as well as three central administrations. The authorities state that objective is for the officials "to perform some type of surveillance activities according to the authorities granted to them by Law."

Remedial actions and effective, proportionate, and dissuasive sanctions

a) Financial Institutions

339. All three financial sector regulators have similar powers and procedures for applying sanctions for non-compliance. Since 2014, institutions have been able to submit "self-correction programs" when they have identified deficiencies that have not previously been apparent to the supervisors. Such programs must be agreed with the supervisor (which can refuse to do so when the issue is considered significant enough to justify serious enforcement action) and are then subject to monitoring during the period of implementation. This procedure, which is being increasingly used, is seen by the supervisors as a way of encouraging greater self-regulation among FIs and reducing the time and costs of bringing enforcement action for relatively minor deficiencies. The CNBV exercised the power to reject a self-correction program in 3 of the 17 cases submitted for approval in the two years, 2014–15. The CNSF and the CONSAR approved 69 and 3 such programs, respectively, over the same period. If the self-correction plan is not properly implemented, the regulators can impose a reorganization plan. The CNSF issued 24 such plans in 2014–15. The self-correction program appears to provide a valuable tool to encourage institutions to self-diagnose deficiencies as promptly as possible, but it also contains sufficient safeguards to prevent it being misused to frustrate direct regulatory action, when appropriate.

340. More traditionally, the supervisors also have a range of powers to impose corrective measures, apply enforced compliance programs, remove management, curtail or prohibit specific business operations, apply financial penalties, and revoke authorizations. All the supervisors have the powers to apply direct sanctions to individual directors and managers for breaches of AML/CFT requirements, but no such actions have yet been taken. Greater consideration should be given to the use of these powers. Equally, no sanctions have ever been applied specifically for TF deficiencies.

341. The laws allocate different ranges of financial penalties for failure to comply with specific AML/CFT requirements, but also provide for fines to be assessed as a percentage (up to 100 percent) of the value of certain transactions (e.g., failure to file an STR or to freeze funds held by someone on the BPL). There is no circumstance in which the supervisors may exceed the top of the range, irrespective of how serious the deficiency might be. They follow strict due-process procedures in describing the deficiencies, hearing mitigating factors or counter-evidence, and calculating the final penalty, based on a number of factors, including the materiality of the deficiency, the financial strength of the entity, and its previous record of compliance. In recent years, the supervisors have posted on their websites a summary of the financial penalties imposed. This has been a valuable tool in helping improve compliance, since the institutions have been concerned about the impact of such publicity on their reputation.

342. The supervisors routinely apply financial penalties, as illustrated in the table below, showing the actions taken by the CNBV in respect of individual deficiencies. The sanctions relate both to technical deficiencies identified during the off-site analysis of the regular reports submitted to the supervisors and to more operational deficiencies identified through the on-site inspection process.

Table 39. **Financial Penalties Applied by the CNBV (USD Equivalents at Year-End Exchange Rate)**

Off-Site Supervision			
Year	**Sanctions**	**Total Amount**	**Average Fine**
2014	1 537	2 921 937	1 849
2015	4 383	4 867 382	1 180
2016	1 189	619 905	521
2014	7	5 370 658	767 236
2015	53	1 170 729	22 089
2016	43	795 349	18 496

343. The following table provides a further breakdown of the financial sanctions applied in the two sectors deemed to be highest-risk according to the NRA and the CNBV's own risk analysis (i.e., multiple banking and securities brokers).

Table 40. **Financial Penalties Applied For AML/CFT Breaches (USD Equivalents at Year-End Exchange Rate)**

Sector		2014	2015	2016
Multiple Banking	Number of Sanctions	33	64	40
	Total Value of Fines	6 235 893	1 099 659	356 514
	Average of Fines	188 966	17 182	8 912
Brokerage Firms	Number of Sanctions	3	25	11
	Total Value of Fines	102 342	198 323	142 082
	Average of Fines	34 114	7 932	12 916

344. Since these figures relate to penalties for individual types of deficiency, a single institution may well have received cumulative sanctions for multiple failings. However, the average size of the fines applied over the three-year period with respect to all types of institution has been very low. This appears particularly to be the case with respect to the two highest-risk sectors of banks and securities brokers. While the average size may be a relatively blunt indicator of whether the fines may be considered effective, proportionate, and dissuasive, examples (seen by the assessors) of the largest cumulative penalties applied to different types of institution in recent years paint only a slightly better picture, especially when considering the nature and range of deficiencies identified.

345. The authorities have indicated that, because the timelines for reaching a final resolution of a financial penalty can be quite extended (in many cases two–three years), most of the penalties applied up to end-2016 related to deficiencies identified before the scale of available fines was increased in 2014. Therefore, there is currently no material evidence of the extent to which

application of the new sanctions[74] might result in more effective, proportionate, and dissuasive results, particularly in relation to CDD, record-keeping and general systems, and controls failures. The only areas where there is evidence to suggest that the penalties might meet this test are in relation to the failure to comply with the various reporting obligations and to freeze assets in line with the BPL. Here, the fine is tied to the value of the transactions involved. All the examples where there has been a material level of financial penalty have included failings in respect of STRs/CTRs. While the increase in the available penalties for broader systems and controls failure are to be welcomed, there remain concerns that the maximum levels will still not be proportionate in relation to significant systems failures by the largest FIs.

346. The financial sector indicated that the time lag in settling the financial penalties was frustrating, in that the institutions had almost certainly moved on by the time that the publicity emerged on the supervisors' websites about the action taken. They considered that this resulted in misconceptions among domestic and foreign counterparts about the current position of a sanctioned institution. Therefore, they welcomed recent improvements in shortening the period between the identification of the problem and the finalization of the sanction,[75] but considered that further progress could still be made. However, the institutions voiced an underlying concern that the fines are still based almost entirely on the quantification of technical deficiencies and are insufficiently defined by materiality and risk. They stated that this led to difficult discussions with their market counterparts, who were focused primarily on the headline fact that a fine had been applied.

b) DNFBPs

347. Remedial action taken by the SAT is almost exclusively centred on financial penalties, as it has no legal authority to impose remedial action plans. It does also have the power to recommend the revocation of an authorization to conduct certain types of business (e.g., notaries and casino operations), but it has never used this power.[76] As is the case with the financial sector, the absolute level of fines applied to entities is low, except where an assessment against the value of unreported transactions is possible (most easily achieved in relation to property developments).[77] The SAT has stated that, due to the absence of an agreed procedure to assess the appropriate level of fines within the bands laid down in the AML law, the practice, so far, has been to impose the minimum fine available in each case.[78] This even applied, for instance, in one case where an entity was found to be in breach of legal requirements in 121 instances. This approach is clearly not sustainable, particularly since the same principles of administrative law, for determining the appropriate level of penalty, apply to the SAT as they do to the financial supervisors.

[74] For each of the more serious systems and controls deficiencies, the maximum penalty for banks and securities brokers now stands at approximately USD 385 000.
[75] Since 2015, the objective has been to finalize sanctions within 95 working days for serious offences and 165 working days for others.
[76] One case involving a customs broker was before the courts, subsequent to the on-site visit.
[77] In essence, property developers must report to the authorities the value of all developments that they undertake.
[78] The SAT also reports that the courts have effectively determined that first-time offenders may only be sanctioned at the lowest level.

Table 41. **Sanctions Applied to Selected Types of Vulnerable Activities following Inspection Visits (USD Equivalent at Year-End Exchange Rates)**

Sector	2014		2015		2016	
	Visits	Total Fines	Visits	Total Fines	Visits	Total Fines
Gambling and Lottery	9	51 541	4	2403	2	0
Professional Services	0	-	0	-	0	-
Notaries	2	0	14	311 293	14	547 002
Dealers in Precious Metals and Stones	0	-	0	-	3	13 319
Purchase and Sale of Real Estate	9	14 317	8	4 793 049	3	869 414

Impact of supervisory actions on compliance

a) Financial Institutions

348. A valuable indicator of the impact that the supervisors are having on levels of compliance would normally be the trend in the supervisor's risk assessments of individual sectors and institutions, as these should reflect the evolution of mitigating factors (e.g., effective systems and controls) to offset inherent risks. The financial sector supervisors, especially the CNBV, have such assessments, but, as explained earlier in the report, they currently represent "work-in-progress," and the movements from year-to-year are more a reflection of the refinement of the methodology, rather than evolution of the underlying risk mitigation.

349. The financial sector supervisors have provided a range of data on the findings from their inspections and off-site surveillance over the past three years, but it is difficult to identify any trends in the performance of the institutions from these data. The supervisors continue to find a cross-section of deficiencies through their inspection work, but there are no particular aspects where there have been marked improvements or lapses in performance by the institutions. The institutions, themselves, state that the actions of the supervisors (through a combination of the availability of self-correction programs, improvements in the quality of the inspections, more developed outreach, and publication of the enforcement measures) are leading them towards improved compliance. Interestingly, they did not express the view that the level of the fines acted as an incentive towards greater compliance, but they felt that the incentive arose from the reputational damage within the financial market associated with the publication of the fact that a penalty had been applied.

350. The data provided by the authorities does indicate that there are a number of repeat offenders, in terms of institutions that have been sanctioned more than once in recent years for AML/CFT deficiencies. This includes 20 banks and over 30 insurance companies, but it has not been possible to assess the extent to which these represent technical or material deficiencies.

351. Part of the difficulty in establishing the impact that the supervisors are having on compliance levels is that there has been a number of significant changes to the regulatory requirements in recent years, as Mexico seeks to improve its own technical compliance with the FATF standards. This means that the institutions have had to take time to understand the new requirements and to make relatively frequent adjustments to the details of their policies and control environment. The most recent changes have been the introduction of requirements for institutions to undertaken formal risk

assessments and measures to strengthen the BO obligations, including more extensive procedures to identify ultimate BO.

352. However, all parties agree that, although significant improvements have taken place in recent years, there remain a number of challenges that have not yet been fully addressed by FIs, especially (but not only) the smaller institutions. These include: (i) customer profiling; (ii) the identification and risk classification of domestic PEPs; (iii) the identification of true BO; (iv) the implementation of more refined transaction monitoring systems; and (v) the quality of STRs.

353. In a valuable move to improve and standardize AML/CFT knowledge among key professionals, the CNBV has introduced a requirement that all compliance officers and internal and external auditors that undertake AML/CFT work should be certified through an examination process administered by the CNBV. Certification has to be renewed every five years. This requirement has been rolled out progressively, since June 2015 across the various sectors supervised by CNBV, with over 2 000 certifications having been issued. The project is also in the process of being extended to the insurance and pension fund sectors. The industry itself believes that this has been an important factor in improving standards within the institutions' compliance functions.

b) DNFBPs

354. The SAT has stated that its supervisory procedures have been effective, in that there has only ever been one identified repeat offender in terms of the enforcement actions undertaken and that the SAT has noted an increase in compliance through its off-site monitoring of submissions by the entities. In practice, there appears to be scant evidence to support this conclusion. The very limited number of inspections undertaken across the DNFBP sector does not provide a firm basis for any reliable analysis; it is difficult to establish how the off-site surveillance procedures can determine the extent to which the broad spectrum of the AML obligations is being met; and the SAT's remit does not extend to assessing compliance with CFT obligations. Moreover, the list of typical findings from the SAT's inspection program covers a broad range of deficiencies (including lack of proper information on customers and beneficial owners), and there appears to be no basis on which to conclude that these issues are not widespread.

Promoting a clear understanding of AML/CFT obligations and ML/TF risks

355. The extent to which the respective supervisors have actively engaged with the private sector in promoting an awareness of AML/CFT compliance issues varies. The CNBV has issued extensive guidance to the FIs over recent years. This takes the form of letters addressed directly to the institutions, guidance directed at both the sector as a whole and particular types of institution, and video tutorials available on the website. In addition, it has provided training programs and engaged in regular meetings with the professional associations to address a range of AML/CFT issues. The FIs have indicated that they greatly appreciate these outreach programs and that the process has helped them to improve their understanding of the obligations. However, they consider that more guidance is required on the identification of TF threats and on the definition of who constitutes a PEP. They also look for more statistical information from the authorities to assist with their own risk assessments.

356. The other supervisors appear to have been somewhat less active in direct and sustained engagement with the industry. For instance, the CNSF reports that its engagement is primarily

through the on-site examination process and through monitoring the training programs that institutions are required to provide to their staff. It has also conducted briefing sessions with the Mexican Association of Insurance Institutions. Otherwise, its primary outreach has been in conjunction with the FIU to raise awareness of the importance of the STR regime. Equally, the CONSAR has mostly limited its focus to providing guidance on STRs. With respect to the DNFBPs, the SAT provides no direct outreach itself (a point noted, in particular, by the private sector), but relies on initiatives undertaken by the FIU.

357. The FIU has been very active in its engagement with reporting institutions. It provides regular feedback to reporting institutions, including statistical data on reporting trends, and has supplied copies of the sector risk analyses that it has undertaken. In addition, it has issued a significant number of best practice guides designed to improve the quality of suspicious transaction reporting and to increase awareness of how to identify ML/TF risks. For the most part, these are distributed to the FIs through their respective supervisory authorities, but are also posted on the special website portal designed for the DNFBP sectors. The FIU, together with the supervisory authorities, also respond to specific requests for interpretative guidance on the general AML/CFT legal provisions. Approximately 90 such requests from the financial sector have been addressed since 2010, and over 2 000 from the DNFBPs since 2013. There has been a particular focus on the DNFBPs, given their relatively recent inclusion within the AML/CFT regime. The FIU has provided a number of feedback reports to the DNFBPs, has implemented over 50 training programs since 2013 and conducted a very substantial number (over 45 000) telephone consultations with individual businesses.

Overall Conclusions on Immediate Outcome 3

358. **Mexico has achieved a moderate level of effectiveness for IO.3.**

CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS

Key Findings and Recommended Actions

Key Findings

- Understanding of the risks of misuse of legal persons and arrangements for criminal purposes is uneven among the authorities, but the PGR, federal police, the FIU, and the SAT have a better appreciation of these risks than other authorities.
- There are a number of safeguards to prevent the misuse of legal persons and arrangements, such as the prohibition of bearer shares, the involvement of notaries in company formation, and exclusive role of FIs as fiduciaries. However, they are effective only to a limited extent.
- Competent authorities do not have timely access to adequate, accurate, and current information on the BO of legal persons.
- The ability to obtain adequate, accurate, and current information on the legal ownership of companies from the federal registers is hindered by several factors:
- The transfer of ownership of shares in the companies is not recorded; and
- The current register system has been in place since September 2016, and not all companies created before that time have been entered in it.
- Competent authorities have timely access to a central registry of legal arrangements (fideicomisos).
- There are no sanctions applied against legal persons who do not comply with the basic information requirements, and the maintenance of BO information by legal persons is not required. However, any act that is not registered in the books of the legal entity will not have a legal validity.

Recommended Actions

Mexico should:

- Raise awareness of the risks of misuse of legal persons and arrangements for criminal purposes among the supervisory authorities (other than the SAT).
- Make sure that the transfer of shares in the companies is recorded and kept up-to-date (i.e., through the involvement of a notary).
- Make sure that information on all companies is entered into the RFC, so that there is no backlog.
- Make sure that competent authorities have timely access to BO information on the legal persons and fideicomisos.
- Introduce sanctions applicable to legal persons or their responsible officers for the non-compliance with the basic and BO information requirements.

359. The relevant Immediate Outcome considered and assessed in this chapter is IO.5. The recommendations relevant for the assessment of effectiveness under this section are R.24 and 25.[79]

Immediate Outcome 5 (Legal Persons and Arrangements)

Public availability of information on the creation and types of legal persons and arrangements

360. Currently, the trust services are offered by 36 banks in Mexico, of which 30 are universal banks and 6 are development banks. The amount of assets managed under *fideicomisos* (trusts) is around MXN 7 trillion with top-7 institutions controlling 70 percent of them. These banks are regulated and supervised for AML/CFT purposes.

361. The different types, forms, and basic features of legal persons are defined in the Mexican law, and the processes for their creation is described on the official government websites (see R.24 for more details). This is public information and can be accessed on the Internet. The same applies also to the only legal arrangement that exists in Mexico (i.e., the *fideicomisos*, see R.25).

Identification, assessment and understanding of ML/TF risks and vulnerabilities of legal entities

362. The NRA does not specifically differentiate risks associated with different types of legal persons, although it mentions that using front companies is one of the most widespread ML techniques. The NRA merely states that all types of legal persons have to register in the central registry through a trusted third party (such as a notary public or a public broker), who has the obligation to verify the information submitted. However, LEAs, the FIU, and the SAT appear to have a good understanding of the risks related to the misuses of the legal persons and arrangements for criminal purposes. They have conducted analysis of companies that have a higher risk of being related to ML/tax evasion transactions, considering indicators, such as the number of related persons, amount of capital at the time of the constitution, participation in the constitution of other legal persons, age and nationality of the shareholders, and geographical area where they were established, among others.

363. According to the authorities, the most widespread phenomenon is the misuse of shell and front companies to perpetrate predicate offences, such as self-dealing, embezzlement, and tax evasion, as well as to invest illicit proceeds from organised criminality and corruption in real estates, restaurants, shops, and other businesses either in Mexico, the U.S., or other foreign countries. The most used type of company is the limited liability company (Sociedad Anónima) which is explained by the ease by which it is created, and the minimal requirements with regard to the capital and shareholders (minimum two shareholders and low minimum capital requirement).

364. In the most basic cases, the company may even be registered in the name of the criminal, but the name may still remain hidden from the general public due to the deficiencies in the company ownership register. This is explained in more details below.

365. The most widespread practice, however, is the use of the strawmen or so-called informal "brokers," who are essentially professional intermediaries that operate in an informal way without

[79] The availability of accurate and up-to-date basic and beneficial ownership information is also assessed by the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes. In some cases, the findings may differ due to differences in the FATF and Global Forum's respective methodologies, objectives and scope of the standards.

registration or business license. They are used to register the companies either in their own names or in the names of unemployed people, students, etc., thereby preventing the name of the beneficial owner from appearing on the records. In more complex cases, additional degrees of anonymity can be provided by including foreign shell companies in the ownership chain.

366. There seems to be a risk of the misuse of the *fideicomisos*, since they are often used by foreigners to buy property and invest in Mexico; however, the authorities consider that the risk is mitigated due to the fact that only regulated FIs can serve as trustees and they are obliged to identify the different parties to the trusts, including the settlor, but not the beneficiary (or class of beneficiaries). It should be noted that FIs do not go beyond identifying legal ownership if a settlor is a legal person (see also IO.4). There have been a few cases where *fideicomisos* have been used to invest illicit funds.

367. The supervisors (both for FIs and DNFBPs) do not seem to be familiar with the risks posed by the legal persons and arrangements, probably partly due to the deficient requirements with regard to identification of the BO and partly due to the recent introduction of the BO concept into the legislation (in particular for DNFBPs).

Mitigating measures to prevent the misuse of legal persons and arrangements

368. There are a number of measures in place in Mexico that provide for safeguards preventing the misuse of legal persons and arrangements. Although these measures are not based on risk assessment, they remain relevant.

369. First of all, bearer shares, nominee shares and nominee directors are not allowed in Mexico (see c.24.11–12 in the TCA). Both the private sector and the authorities confirmed that they have never encountered the use of bearer shares in practice.

370. Second, formation of all types of legal persons (with the exception of simplified companies by shares) has to be conducted through either the notaries public or public brokers (see c.24.5 in the TCA), who in turn are subject to AML provisions, including CDD and record-keeping. It should be noted that the full scope of CDD measures, especially identifying and verifying the BO, is rarely done in practice. There is not so much difference between the notaries public and public brokers, the latter having more narrow functions (e.g., not being able to certify real estate transactions). Both notaries public and public brokers operate as an extension of the state and have the obligation to ensure the accuracy of the information submitted by the parties forming the legal person. They verify the identities of all parties involved in the formation of legal persons (shareholders and legal representatives), their powers of attorney, the articles of incorporation and tax references. All the information along with the copies of supporting documentation is then forwarded by the notaries to both to RPC (in case of corporations, companies, cooperative companies, mutual societies and foreign legal persons of private nature) and the RFC (for all types of legal persons). On average, there are 7,947 companies registered per month by 3,622 notaries and 412 public brokers nationwide, which gives an estimate of two company registrations per intermediary per month, which seems to be a manageable figure. In certain Mexican States, such as México and Chiapas, the figure is much higher, but still remains in the reasonable range. As an explanation to the higher number of company registrations on these two states, it should be noted that the State of Mexico has the most important income of the country and the State of Chiapas is perhaps the most touristic one.

371. As mentioned above, there is no requirement to register simplified companies by shares through a notary. This type of company was introduced to facilitate entrepreneurial activities, and it can be formed on-line. However, there are certain safeguards with regard to collection of information on its owners, managers, and legal representatives. In order to create a company all persons involved in it have to obtain an electronic signature at the SAT. For that they have to come in person and have their biometrical data taken. Subsequently, all information on the newly created companies is stored in the RFC and the RPC, just like for all other types of companies. These companies are only authorized to be used as long as their annual turnover does not exceed MXN 5 million. If that threshold is reached, the company has to be transformed into an ordinary limited liability company.

372. In the case of *fideicomisos*, the fiduciaries can only be FIs, which are subject to full range of AML obligations. Certain types of *fideicomisos* (i.e., those that generate business income) have to be registered at the RFC. Other types of *fideicomisos* have to be either registered in the Trust Control and Transparency System managed by the SHCP (Ministry of Finance) (for trusts under the administration of the Federal Public Administration) or at the Information Department of the Financial System of the Bank of Mexico (all other types of trusts).

373. All measures described above are effective only to a limited extent to address the risks of misuse of legal persons and arrangements. This is discussed below in more details.

Timely access to adequate, accurate and current basic and beneficial ownership information on legal persons

Basic Information

374. As described above there are two main sources of the basic information on legal persons: the RFC and the RPC. The main difference between these registers is that the RFC contains information on all types of legal persons, while the RPC only on those that engage in commercial activities. In other words, the RPC does not include information on unions and associations (including professional, political, religious, or any other purpose).

375. All competent authorities have a direct, instant, and unlimited access to the RPC, and usually this is the starting point in establishing the ownership and control structure of legal entities. As far as the RFC is concerned, the FIU, the PGR, and the SAT have direct access to it, while the CNBV and the CNSF have to make a request to the SAT in each case. Despite the existence of these registers, there are a number of serious problems related to the accuracy and completeness of the information contained in them.

376. First of all, there is no obligation to involve a notary when transferring shares in the company if there is no change in the constituting documents (such as articles of incorporation and by-laws) and there is no change in the minimum fixed capital. Thus, a simple transfer of shares from one person to another will not require any certification before the notary and as such will not be reflected in any of the registers. This seriously impacts the ability of competent authorities to obtain up-to-date information even on the basic level with regard to the legal ownership of companies which was confirmed during the interviews with the LEAs.

377. Second, the current system of the single registers at the federal level (i.e., the RPC and the RFC), named SIGER 2.0, has been fully operational only since September 2016. Before that notaries

were first providing the information to the local government, which in turn was responsible for making this information available to the public and for forwarding it to the federal authorities. Due to the lack of capacity and resources (both human and IT) in certain states, the quality of information provided and the timeliness of updates has been very uneven among the states. In some cases, the time delay between the incorporation of a company and its entry in the federal register could go up to a year. Some information was provided in a format that was not machine-readable and some information was missing or incomplete. As mentioned above, this has changed now and all newly incorporated companies in all states are recorded in the registry. However, there are six states (Michoacán, Nuevo Léon, San Luis Potosi, Sinaloa, Tamaulipas, and Ciudad de México), where there is a backlog of companies created before September 2016 that have not yet been entered into the single federal registers. According to the estimates of the authorities, approximately 90 percent of all companies have been entered into the federal registries, and the process should be complete by the end of 2017. Where a legal person has not yet been entered in the RFC/RPC, it may take up to a week for the authorities to retrieve information from the local governments either by sending a request or visiting their premises. It should be noted that since September 2013, notaries and public brokers have to report to the FIU all new registrations of legal persons, as well as other acts performed by notaries (i.e., real estate transactions), along with data obtained through the CDD, immediately after the act.

378. Finally, the level of compliance with BO obligations among notaries remains weak. Moreover, notaries cannot refuse the incorporation of a company if all legal prerequisites are met, even if they suspect that a person is acting as a strawman. That can result in some legal owners appearing in the register who are in fact strawmen. In that case, the notaries can only make further inquiries about the real owner of the company and file an STR with the FIU. In some cases, the notaries may be colluding with the strawmen (i.e., when the notary registers dozens of companies in the name of the same person without reporting suspicion).

379. This has been confirmed by the SAT in the course of its supervisory activities. In particular, in 2014–2016, there were 16 on-site inspections and in 10 of them, the SAT identified 88 violations of customer identification obligations and 73 violations in identifying BO. Given that the notaries are the central element in ensuring the accuracy of the information that is submitted in the federal registers, this raises questions regarding the accuracy of that information. Moreover, no notaries have been disqualified so far for facilitating creation of shell companies for strawmen, except for one isolated case where a notary had colluded with criminals, and subsequently was arrested, had his license was revoked and was under prosecution at the time of the on-site.

Beneficial Ownership Information

380. There is no register or database of the beneficial owners of the legal persons in Mexico.

381. In principle, FIs and DNFBPs (notaries in the first place) in certain cases hold relevant information on BO that they have obtained from their customers in the course of the CDD. However, BO is being identified only to a limited extent owing both to the deficient legal framework (which has recently been amended to address this issue, but will enter into effect after the on-site) and the low level of compliance as evidenced by supervisors and interviews conducted on-site (see above and also analysis for IO.4). For clients that are legal persons, FIs are only required to identify BO of those classified as high-risk and often unduly rely on customer's self-declaration of BO, and notaries do not go beyond verifying the first level of ownership (i.e., legal ownership), especially in the case of

foreign shareholders. Moreover, if there is a change in the ownership or control structure of the foreign shareholder, the bank or notary would not be notified about this change (see also criteria 10.7 and 22.1). In addition to that, in order to access the BO information for a particular company, competent authorities need to identify, in the first place, with whom this company has a business relationship. In the absence of a central registry of bank accounts (or a similar mechanism), timely access to BO information cannot be ensured.

382. Due to the challenges described above, the authorities often have to rely on investigative techniques (wiretapping, search of premises, interviewing witnesses) or international assistance (requests via the Egmont network or MLAs), which are time-consuming (these procedures can take months or even years) and therefore do not ensure timely access to BO information.

7

Timely access to adequate, accurate and current basic and beneficial ownership information on legal arrangements

383. As mentioned above, the only legal arrangement that can be established under Mexican law is the *fideicomiso*. Only FIs under the supervision of the CNBV can serve as trustees by law.

384. One of the sources of information on *fideicomisos* is the RFC. It contains information on the trustee (i.e., the FI), the settlor, the beneficiaries (in case they are defined), as well as on the assets involved and underlying economic purpose of the arrangement. However, since the main purpose of the RFC is to keep track of tax obligations, only those *fideicomisos* that generate business income have to be registered there (which in fact is only a small part of the total number that are registered). In an interview with a bank, it turned out that out of 9,400 *fideicomisos* managed by this bank, only around 50 were subject to registration in the RFC. Other types of *fideicomisos* have to be either registered in the Trust Control and Transparency System (for trusts under the administration of the Federal Public Administration) or at the Information Department of the Financial System of the Bank of Mexico (all other types of trusts).

385. FIs acting in the capacity of trustees generally have a good understanding of their obligations with regard to identifying and verifying the parties to the arrangement. They provide this information to the RFC and other registries as soon as a *fideicomiso* is created, as required by tax law. If there is any change in the composition of the *fideicomiso* or underlying assets this is also reported to the relevant registry without delay.

386. However, there are some issues with regard to the availability and access to the BO information of *fideicomisos*. Most of *fideicomisos* do not have to be registered in the RFC, and among them are those that may present vulnerability from the ML/TF point of view. An example of such *fideicomiso* would be a trust where the underlying assets are either cash in the current account or real estate that does not generate rental income which are held for the benefit of a third party (i.e., for the purpose of inheritance). In this case the information on the parties to the trust will either be available at the fiduciary FI, in the Trust Control and Transparency System, or at the Information Department of the Financial System of the Bank of Mexico. It is not clear, however, what the modalities of access to those registries are for the FIU and LEAs and whether competent authorities have ever made requests to them. Thus, timely access to BO information might not be ensured in every case. Even when the FI is known, the request for information through the CNBV may take up to a week.

Effectiveness, proportionality and dissuasiveness of sanctions

387. Legal persons and their representatives are liable for failure to comply with the requirements to register in the RPC/RFC, and the sanctions foreseen for that appear quite dissuasive and proportionate (three months to three years of prison). Relevant statistics have not been provided, however. There are no specific sanctions foreseen for failure to maintain a register of shareholders or members and update it accordingly which is a specific responsibility of legal persons and their representatives

388. The FIs acting in the fiduciary capacity in *fideicomisos* are liable for non-compliance with BO identification and record-keeping requirements with regard to their clients by virtue of being subject to AML/CFT regime. There is a range of sanctions that are available for the supervisors in the case of non-compliance; however, there are doubts about how effectively these are being applied (see also IO.3). Moreover, the legal framework defining BO requirements is deficient, although this will change with the recent amendments (see above).

Overall Conclusions on Immediate Outcome 5

389. **Mexico has achieved a moderate level of effectiveness for IO.5.**

CHAPTER 8. INTERNATIONAL COOPERATION

Key Findings and Recommended Actions

Key Findings

- Mexico has a solid legal and institutional framework in place to seek and provide MLA. The authorities also frequently rely on other forms of international cooperation to exchange information with other countries. The staff of the PGR appear to have a high level of knowledge and specialization to enable them to effectively cooperate with foreign counterparts.
- Mexico has decided as a policy matter to strengthen and favour other forms of cooperation while only pursuing MLA "when strictly necessary." This strategy has produced substantial results with the U.S.
- The effectiveness of MLA is hampered by the lack of specific guidelines for prioritizing foreign requests, and the lack of legal provisions governing controlled deliveries and joint investigation teams.
- As regards seeking MLA from other countries, the PGR is neither proactive nor seem to accord a high priority to pursuing MLA when the offense has a transnational element and evidence or assets are located abroad.
- So far as extradition is concerned, Mexico has a robust legal and institutional framework based on effective coordination between the different authorities involved (the PGR, Ministry of Foreign Affairs, and judicial authorities). The only shortcomings relate to the delays which sometimes result from the appeals process (recurso de amparo), and the low number of extradition requests sent to other countries in respect of ML, evidencing the PGR's lack of proactiveness in pursuing this offense
- Other forms of international cooperation to exchange financial intelligence and supervisory, law enforcement, or other information for AML/CFT purposes appear to be effective, more fluid, and more frequently used than MLA, particularly as far as cooperation with the U.S. is concerned. Such informal cooperation should primarily complement and not substitute MLA mechanisms.

Recommended Actions

- Mexico should further align its legislative framework with international standards to ensure that it is able to provide the widest assistance possible (see R.37–40 for more information).
- Mexico should establish an effective case management system to facilitate the follow-up of both incoming and outgoing requests for assistance, and should also develop proper guidelines on how to prioritize such requests.
- The PGR should take a more proactive approach to and raise the priority given to ML investigations that have a transnational dimension with a view to locating and extraditing criminals abroad, as well as identifying, seizing, and confiscating their assets.

390. The relevant Immediate Outcome considered and assessed in this chapter is IO.2. The recommendations relevant for the assessment of effectiveness under this section are R.36–40.

Immediate Outcome 2 (International Cooperation)

391. As the Mexican authorities acknowledge in the NRA, Mexico's main interlocutor in the area of international cooperation—in order to facilitate action against criminals and their assets—is the U.S. At the same time, they recognize that international cooperation with other jurisdictions is also necessary to deal with regional threats (in North and Central America and the Caribbean),[80] as well as threats arising in other geographical areas. Against that background, Mexico has decided as a policy matter to strengthen and favour other forms of cooperation while only pursuing MLA when strictly necessary. This strategy has produced substantial results with the U.S.

392. Responsibility for MLA in Mexico lies with the *Dirección General de Procedimientos Internacionales* (DGPI) within the PGR. The Directorate of International Legal Assistance (DAJI), which is part of the DGPI, is responsible for the implementation and follow-up of incoming and outgoing MLA requests and is staffed by 1 director, 18 lawyers, and 15 administrative assistants. The PGR also has liaison officers posted abroad (e.g., Washington, Los Angeles, Bogota, Guatemala, Vienna, and Madrid) in order to facilitate the execution of MLA requests. In addition to MLA, and as indicated above, Mexico uses other forms of international cooperation to exchange financial intelligence and supervisory, law enforcement, or other information for AML/CFT purposes. These appear to be effective, more fluid and more frequently used than MLA, particularly as far as cooperation with the U.S. is concerned.

Providing constructive and timely MLA and extradition.

393. Mexico has a legal and institutional framework in place that enables it to provide constructive and timely MLA and extradition. In addition, the expertise of the staff at the DAJI is sufficiently developed to execute formal and informal requests for information from foreign counterparts. With respect to extradition in particular, both the level of specialization of staff and the existence of fluid coordination between the relevant players (Ministry of Foreign Affairs, PGR, and the judiciary) are elements that contribute to the execution of requests. However, there are a number of shortcomings as described below.

394. As far as the provision of MLA is concerned, between 2010 and 2016, Mexico received 1,236 MLA requests in respect of various offences, of which 155 had a ML component. As of January 2017, 214 MLA requests were in the course of being executed, of which 38 were associated with ML. The remaining 1022 requests had been implemented. These figures (see **Table 42** below) show that the proportion of implemented and pending requests is roughly the same as between total requests received and ML-related requests. It is not possible to draw any clear conclusions from these figures regarding the constructiveness and timeliness of implementation of the requests due to the lack of detailed information on how long the requests took to be implemented or their complexity, information which a case management system would be able to provide. Mexico has received only one MLA request related to TF.[81]

[80] See the GAFILAT report, "Analysis of Regional Threats on Money Laundering" (December 2015).
[81] In March 2010, Colombia sent an MLA request seeking information concerning individuals suspected of being involved in TF. After the relevant enquiries had been carried out, a reply to the request was sent one year later, in March 2011.

Table 42. **Total Number of MLA Requests Received by Mexico (2010–2016)**

	Total MLA requests received	Total MLA requests implemented as of January 2017	Total MLA requests outstanding for implementation as of January 2017
MLA requests related to various offenses	1 236	1 022	214
MLA requests with a ML component	155	117	38*

* The Mexican authorities provided other statistics, according to which only 10, rather than 38 MLA requests with a ML component were pending as of January 2017, but no documentary evidence was provided in support of that revised figure.

Table 43. **Total Number of MLA Requests related to ML Received by Mexico (2010–2016) per Country**

Country of Origin	Number of Requests
Albania	**1**
Andorra	**3**
Argentina	**4**
Bolivia	**3**
Brazil	**1**
Colombia	**21**
Costa Rica	**3**
Canada	**1**
Chile	**1**
Germany	**4**
U.S.	**34**
Ecuador	**5**
El Salvador	**6**
Spain	**12**
Finland	**1**
Guatemala	**11**
Netherlands	**1**
Honduras	**19**
Nicaragua	**2**
Panama	**10**
Peru	**17**
Portugal	**1**
Romania	**1**

Country of Origin	Number of Requests
Switzerland	**6**
Venezuela	**3**
Total	**171**

395. As explained under criteria 37.1 and 37.8 of the TCA, the statutory provisions comprising the legal framework for MLA as set out in the National Criminal Procedural Code (CNPP) are very broad, and are underpinned by two main principles: (i) foreign MLA requests must be implemented as quickly as possible and with the utmost diligence; and (ii) the Mexican authorities must provide the highest level of cooperation possible in the investigation and prosecution of offenses. Despite the Mexican authorities' assertion that a catch-all provision of the CNPP ensures that any other type of MLA for which there is no specific provision in the law may be executed, it is unclear whether Mexico could execute a MLA request seeking a controlled delivery or a joint investigation in the absence of statutory provision regulating these investigative techniques at national level.

396. Mexican law lays down seven discretionary grounds for refusing to provide MLA and one discretionary ground for deferring such provision. The grounds for deferral may be invoked where execution of the request might compromise or obstruct an ongoing investigation. In practice, it would seem that in some cases where there is an ongoing investigation in Mexico, the Mexican authorities simply refuse the MLA request rather than inform the requesting country of the existence of their own investigation and postpone provision of the assistance.

397. Information received from other countries suggests that requests are generally executed in between 5 and 12 months. It is unclear whether any delays are due to the system in place for the registration and follow-up of foreign requests within the DAJI or within the unit responsible for supplying information to the DAJI (i.e., they do not provide information concerning ongoing investigations).

398. At the time of the on-site visit, Mexico did not have a case management system or any other mechanism[82] for the prioritization of MLA/extradition requests based on, for instance, the nature of the crime (ML/TF or predicate offenses), its seriousness, the date of receipt of the request, or the urgency of the measures/assistance sought. The lack of an effective case-management system or other mechanism enabling both incoming and outgoing requests to be monitored regularly undermines the effectiveness of the system as a whole and may produce delays. In order to standardize the procedures for the implementation of MLA requests, the DGPI updated its MLA Manual on Procedures in 2015, which describes the legal framework and procedures governing the DGPI, including flow charts illustrating its powers. However, the manual is more of a compilation of international treaties than an actual guide on the steps to be taken in providing or seeking international cooperation.

399. According to the information provided, between 2014 and 2016, Mexico received only two MLA requests from Peru and Spain for the seizure of assets. Neither of these requests concerned ML. No MLA requests were received for the confiscation of assets. In contrast, over the same period,

[82] After the on-site mission, the Mexican authorities rolled out a new electronic case management system known as *Justici@net*, a computer application with specific modules which, as far as the DGPI is concerned, focusses on extraditions and MLA. According to the information provided, it is expected to enable MLA requests to be registered and their status reviewed, inter alia.

Mexico received numerous MLA requests seeking banking and financial information on persons under investigation or concerning assets seized in Mexico.

400. The Mexican authorities have never received a MLA request for the sharing and repatriation of assets. Despite the extensive cooperation that exists between the U.S. and Mexico in general terms (between 2014 and 2016, Mexico received 63 MLA requests from the U.S.), there is no record of the Mexican authorities ever having received a U.S. request for sharing and repatriation of assets. Nonetheless, Mexico does seem to have mechanisms in place for that purpose. The U.S. and Mexican authorities confirmed the existence of a repatriation program but, according to the U.S. authorities, that program was put on hold in 2012. In one specific case in 2012, an agreement was reached between the Mexican and U.S. authorities on the repatriation of assets.

401. Feedback provided by a number of countries suggests that the quality of the assistance provided by Mexico has been good. Where a MLA request lacks information or does not meet the legal requirements, or where the information provided is unclear, the standard procedure is for case officers to contact the authorities of the requesting country.

Box 5. **Case Study—MLA Request Implemented by the Mexican Authorities—"COFRUVEISA"**

In October 2011, the DGPI/PGR received the first MLA request from Guatemala seeking the collection of evidence to be used in a ML criminal investigation against a company, COFRUVEISA, as well as against Mexican, Guatemalan, U.S., and Chinese nationals. The purpose of the request was to verify the existence of monetary deposits and international transfers made by COFRUVEISA to different bank accounts in Mexico and to collect commercial, tax, and trade information and documentation.

Between October 2011 and December 2014, the DGPI/PGR sent Guatemala the relevant banking, tax, criminal, migratory, and commercial records. The MLA request was thus granted.

In October 2016, Guatemala submitted a further MLA request for the purpose of identifying assets located in Mexico belonging to COFRUVEISA.

In 2017, the DGPI/PGR asked the PGR's delegates in the States of Veracruz, Guanajuato, and Chiapas to locate legal representatives, attorneys, managers, and/or administrators of Mexican companies with links to COFRUVEISA. In June and July 2017, the DGPI/PGR, acting through the Legal Attaché for Central America and the Caribbean, sent Guatemala a number of documents obtained from the competent Mexican authorities. The MLA request was thus granted.

402. As regards extradition, various authorities participate in the extradition process, such as the Ministry of Foreign Affairs, the PGR (Extradition Directorate within the DGPI) and district judges. The legal framework for extradition is well-structured and has a clear statutory basis. The Ministry of Foreign Affairs has adopted a manual to ensure standard operating procedures in extradition cases and has arranged specialised training courses aimed at practitioners.

403. Between 2010 and 2015, the Mexican government granted a total of 689 extradition requests for a range of offenses, of which 64 were associated with ML. A total of 29 extradition requests were refused, of which 3 related to ML. In these three cases, the extradition requests were refused on the grounds that the requested person was under investigation for the same acts in Mexico. During the

period in question, 531 persons were actually extradited, of whom 22 were extradited for ML-related offenses.[83]

Box 6. **Extradition of "El Chapo" (Mexico - U.S.)**

July 29, 2015. The PGR filed a formal request for international extradition against Joaquín Guzmán Loera, alias "El Chapo" before the Third District Court of Federal Criminal Proceedings in Mexico City with a view to having him prosecuted before the Federal District Court for the Southern District of California. The arrest warrant was issued on the same date.

September 18, 2015. The PGR filed before the Eighth Court of Federal Criminal Proceedings in Mexico City a second formal extradition request against El Chapo at the request of the U.S. government with a view to having him prosecuted before the Federal District Court for the Western District of Texas. The District Judge issued the corresponding order on September 21, 2015.

January 20, 2016. El Chapo was detained for international extradition.

May 20, 2016. The Mexican Ministry of Foreign Affairs issued orders granting the extradition request in respect of El Chapo to the U.S. government with a view to having him: (i) prosecuted before the Federal District Court for the Southern District of California for crimes of association to import and possess with the intention of distributing cocaine; (ii) prosecuted before the Federal District Court for the Western District of Texas on charges of conspiracy to commit crimes against health, possession of firearms, ML, and related offenses. El Chapo brought two constitutional appeals against each extradition order, both of which were denied in January 2017.

January 19, 2017. The Mexican Ministry of Foreign Affairs surrendered El Chapo to the PGR for transmission to the requesting authorities. El Chapo was ultimately extradited to the U.S.

404. One country has indicated that its authorities have experienced difficulties with ML-related extradition requests submitted to Mexico: Mexico requires information to be provided on the predicate offence, which delays the implementation of the extradition request. While there is a legal basis for granting extradition related to standalone ML/TF offenses, it is unclear whether Mexico actually grants extradition requests in respect of ML as a standalone offence. Some other countries have expressed concerns regarding delays in extradition proceedings, which sometimes result from the appeals process (*recurso de amparo*).

Seeking timely legal assistance to pursue domestic cases with transnational elements

405. Although Mexico has a solid legal and institutional framework enabling it to seek legal assistance to pursue domestic cases with a transnational dimension, and despite the expertise of the DAJI, the relevant authorities are not proactive in seeking MLA when dealing with such offenses and evidence or assets are located abroad. As indicated above, the Mexican authorities acknowledge that their policy is to use MLA only when strictly necessary and that they mainly use other forms of international cooperation in their interactions with U.S. counterparts. For other jurisdictions, the use of MLA may be required, the aim of which is to ensure that any evidence requested is collected and

[83] The Mexican authorities explain that the discrepancy between the number of requests granted and persons actually extradited is due to the fact that, on occasion, extradition cannot be enforced because the requested person has outstanding criminal proceedings in Mexico. This was what occurred in the ML cases in respect of which extradition was refused. Notwithstanding this explanation, the figures remain inconsistent.

transmitted in observance with procedural safeguards, etc., guaranteeing that it will be admissible in court proceedings.

406. Statistics on Mexican MLA requests for the period between 2010 and 2015 reveal that the number of outgoing requests relating to ML is low, particularly compared to the total number of MLA requests sent for other offenses (see below). The figures also show that, over the same period, outgoing ML-related requests decreased by almost 50 percent. The Mexican authorities explained that this decrease reflects the implementation of their policy to not use MLA unless strictly necessary and the success they have had in obtaining some information mainly from the US through other forms of cooperation. This policy is being pursued primarily with the U.S., Mexico's main partner for international cooperation, as other countries may require cooperation through MLA. As mentioned in IO.7, Mexico may not pay sufficient attention to the investigation and prosecution of ML where there is a transnational element. In particular, one country asserted that judicial cooperation with Mexico in the fight against drug trafficking and associated ML was weak (5 requests received from Mexico between 2012 and 2015 compared with 26 requests from another much smaller country with which the receiving country had far fewer ties).

Table 44. **Mutual Legal Requests Sent by Mexico**

Offenses in respect of which MLA is sought	2010	2011	2012	2013	2014	2015	2016	TOTAL
Other offenses	392	447	721	562	457	406	Not known	2 985
Money laundering	30	41	41	34	27	16	27	210

Table 45. **ML-Related MLA Requests sent by Mexico, by Country (January 1, 2010-December 31, 2016)**

REQUESTED COUNTRY	2010	2011	2012	2013	2014	2015	2016	Total
Germany	0	0	0	1	0	0	0	**1**
Argentina	1	0	0	1	0	0	1	**3**
Belize	0	1	0	0	0	0	0	**1**
Bolivia	1	0	0	0	0	0	0	**1**
Canada	0	2	0	0	1	0	0	**3**
China	0	1	0	0	2	0	0	**3**
Colombia	6	6	7	1	2	2	8	**32**
Costa Rica	0	1	2	1	0	0	0	**4**
Ecuador	1	1	0	0	0	0	0	**2**
U.S.	8	16	17	22	15	5	8	**91**
El Salvador	0	0	0	1	0	0	0	**1**

REQUESTED COUNTRY	2010	2011	2012	2013	2014	2015	2016	Total
Spain	1	2	0	2	0	2	4	**11**
France	0	0	0	0	0	0	1	**1**
Guatemala	0	2	3	3	1	0	1	**10**
Guernsey	1	0	0	0	0	0	0	**1**
Netherlands	1	1	0	1	0	1	0	**4**
Honduras	0	1	1	1	0	0	0	**3**
Virgin Islands	1	0	0	0	0	0	0	**1**
Cayman Islands	0	1	0	0	0	0	0	**1**
Israel	0	1	0	0	0	0	0	**1**
Jersey	1	0	0	0	0	0	0	**1**
Nicaragua	0	0	2	0	0	0	0	**2**
Nigeria	1	0	0	0	0	0	0	**1**
Panama	5	1	1	1	1	1	1	**11**
Paraguay	1	0	0	0	0	0	0	**1**
Peru	1	1	1	1	0	0	0	**4**
Puerto Rico	0	1	0	0	0	0	0	**1**
Romania	0	0	0	1	0	0	0	**1**
Singapore	0	0	0	0	1	0	0	**1**
Sweden	0	0	0	0	0	0	1	**1**
Switzerland	0	1	0	1	1	0	2	**5**
Venezuela	1	2	1	1	0	1	0	**6**
Total	**31**	**42**	**35**	**39**	**24**	**12**	**27**	**210**

407. Only one MLA request sent to Panama sought interim measures for the seizing and freezing of shipments in the context of the investigation of ML and organised crime. There is no record of the Mexican authorities ever having sent an MLA request in order to implement a controlled delivery. LEAs do not appear to pursue assets when moved abroad. This has an obvious adverse impact not only on the number of requests made, but also on the number of assets that could be potentially seized and confiscated abroad. The root cause of this seems to be that the investigative authorities are more focused on domestic offenses and pay less attention to ML where it has a transnational component.

408. As regards cooperation with Central American countries, Mexico sent only 31 MLA requests between 2010 and 2016. On the specific matter of cooperation with the U.S., over the same period, Mexico sent 91 MLA requests to the U.S. In the ML-related requests sent to the U.S., ML tends to be an ancillary charge in corruption and fraud cases. The U.S. has not received any MLA requests concerning TF or enforced a Mexican court order against assets located on the U.S. territory. The

U.S.'s overall assessment of MLA requests received from Mexico is that they are usually difficult to implement because they lack a sufficient factual description of the link between the criminal activity under investigation and the assistance requested. However, such obstacles can often be overcome through direct contact between the competent authorities (e.g., working groups and other informal cooperation mechanisms).

409. As regards extradition, between 2010 and 2015, Mexico made seven requests related to ML, only one of which was granted. This again confirms the Mexican authorities' inordinate focus on serious offences other than ML, something which is also borne out when we compare the total number of extradition requests received by Mexico in relation to ML over the same period (64). Of the total number of persons surrendered to Mexico (120), the vast majority were extradited by the U.S. (87), which also confirms that Mexican international cooperation is very focused on the U.S. and does not extend to other countries with strong connections including criminality related to Mexico.

Table 46. **Extradition Requests Sent by Mexico**

Offenses in respect of which extradition is sought	2013	2014	2015	2016	Total
Other offenses	44	45	47	34	170
ML	2	2	3	0	7

Providing other forms of international cooperation

410. The Mexican authorities regularly seek and provide other forms of international cooperation to exchange financial intelligence, as well as supervisory, law enforcement, and other information with foreign counterparts for AML/CFT purposes. In particular, Mexican and the U.S. LEAs systematically share ML/TF-related information. This exchange of information operates at strategic and operational level and has led to some tangible results (e.g., *Bala de plata* and "Gallardo" cases).

Box 7**. Examples of Other Forms of International Cooperation**

- The FIU, financial supervisors, and LEAs of Mexico and the U.S. have worked together on a number of investigations. In 2014, U.S. FinCEN and the FIU were jointly granted the Best Egmont Case Award for an investigation involving a multi-national and multi-million trade-based ML scheme.
- In August 2017, in coordination with Mexican law enforcement actions, the Office of Foreign Assets Control (OFAC) identified Mexican national Raul Flores Hernandez and his drug trafficking organization as "Significant Foreign Narcotics Traffickers" pursuant to the Foreign Narcotics Kingpin Designation Act. In addition, OFAC designated 21 Mexican nationals and 42 entities in Mexico for providing support to the narcotics trafficking activities in question and/or for being owned or controlled by Flores. This was the largest single Kingpin Act action against a Mexican drug cartel network designated by the OFAC. As a result, all assets of the individuals and entities designated under the U.S. jurisdiction or under the control of the U.S. persons were frozen.
- At the end of December 2016, the OFAC informally provided the Mexican FIU with the names of two individuals suspected to be involved in drug trafficking. The information obtained by both

countries was shared between them in an informal manner, allowing them to identify, over a short period of time, a large part of a criminal organization as well as the methods used. As a result of this cooperation, in 2017 the OFAC included 65 individuals in list of SDN.[84]

411. Outside the MLA context, the PGR has the power to exchange information with foreign authorities and international bodies on matters concerning extradition, the repatriation of property, asset recovery, the enforcement of criminal judgments, and other international matters through its different units. This power is based on treaties and international instruments, as well as MOUs[85] and other cooperation mechanisms enabling bilateral cooperation to exchange good practices. Mexico, through the PGR, is also a party to the GAFILAT Asset Recovery Network (RRAG). At police level, the exchange of financial information is channelled through the Interpol I-24/7 information system.

412. Mexico has signed a number of bilateral agreements with the U.S. in the areas of ML (Grupo de Investigación "Gold") and drug trafficking (Grupo Bilateral de Alto Nivel sobre Politica de Drogas).[86] In addition, Mexico actively participates in a number of informal cooperation mechanisms with the U.S. In particular, the DGPI/PGR officials hold meetings with their Department of Justice counterparts at least every two months in order to discuss and monitor international cooperation matters (extraditions, MLA and the location of fugitives). This informal cooperation encompasses various fronts, from strategic level sharing on trends in money flows to the rapid exchange of detailed information to detect and dismantle financial networks that support criminal organizations on both sides of the border.

413. Other countries have reported fruitful exchanges of information with Mexico. For instance, Spain indicated that it had usefully exchanged information with Mexican LEAs (Federal Police and the civil intelligence agency), particularly in relation to terrorism, leading to the identification and arrest of members of Euskadi Ta Askatasuna, the Spanish terrorist group. Furthermore, between 2010 and 2016, Spanish LEAs also reported four instances of information exchange with one positive outcome at intelligence level with respect to asset recovery. Lebanon also received information from Mexican LEAs on three occasions and the responses were considered to be of good quality.

414. The FIU is able to exchange information with a non-counterpart foreign authority through the FIU of that country, in accordance with the Egmont Group principles for the exchange of information. It also participates in bilateral forums with other FIUs in the region in order to identify and exchange best practices. A number of countries such as New Zealand, Nicaragua, Paraguay, and France reported productive exchanges of information with the Mexican FIU. The average response time was between 20 and 30 days.

415. The FIU is effective in seeking and providing information in a timely and constructive manner from/to other FIUs spontaneously and upon request. Mexico and the U.S. have good mechanisms for automatic exchange of STRs and other information. However, the number of requests made by the FIU could be expected to be higher to address the ML/TF risks and the large number of STRs involving cross-border elements.

[84] See Treasury Sanctions Longtime Mexican Drug Kingpin Raul Flores Hernandez and His Vast Network
[85] PGR has signed international legal instruments with Argentina, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Spain, Philippines, France, Guatemala, Honduras, Israel, Italy, Jamaica, Panama, Nicaragua, Paraguay, Peru, Poland, United Kingdom, Dominican Republic, Romania, Russia, Trinidad and Tobago, Uruguay, and the U.S.
[86] Mexico has also signed bilateral agreements with other countries in Latin America and the Caribbean, such as Peru, Panama, Guatemala, and Colombia.

416. The Mexican authorities state that the number of spontaneous exchanges of information received between 2014 and 2016 increased as from 2015 on account of their participation in the FATF and Egmont Group ISIL project, which promotes inter-country exchanges on TF matters. Specifically, a total of 571 requests for information were received by Mexico, of which 506 included information on STRs related to possible terrorists. 65 reports received related to Mexican nationals or persons with financial or economic transactions in Mexico, compared with 30 reports sent by the Mexican FIU over the same period.

Table 47. **Number of Information Requests Sent Through the Egmont Safe Web**

Year	Applications sent	Subjects included
2010	27	345
2011	38	251
2012	20	115
2013	31	268
2014	34	277
2015	29	382
2016 (May)	27	128

Table 48. **Number of Applications per Country**

Country	2010	2011	2012	2013	2014	2015	2016 (May)	Total
U.S.	13	36	12	23	25	19	14	**142**
Spain	2	1		2	2		2	**9**
Switzerland	1		1	1	3	1	1	**8**
Colombia					1	2	3	**6**
Panama	3		1	1				**5**
Canada					2		3	**5**
Cayman Islands	1		1	1				**3**
United Kingdom			1	1		1		**3**
Netherlands						2		**2**
Romania						2		**2**
Germany	1							**1**
Argentina				1				**1**
Bahamas			1					**1**
Barbados			1					**1**
Bermuda			1					**1**

Country	2010	2011	2012	2013	2014	2015	2016 (May)	Total
Costa Rica		1						**1**
Arab Emirates	1							**1**
France							1	**1**
Guernsey			1					**1**
Hong Kong	1							**1**
British Virgin Islands	1							**1**
Italy						1		**1**
Liechtenstein				1				**1**
Morocco							1	**1**
Peru					1		1	**22**
Qatar							1	**1**
Serbia	1							**1**
Singapore	1							**1**
Taiwan	1							**1**
Uruguay						1		**1**
Total	**27**	**38**	**20**	**31**	**34**	**29**	**27**	**206**

417. Based on a longstanding relationship and cooperation, the SAT, the U.S. Customs and Border Protection (CBP), and the U.S. Immigration and Customs Enforcement (ICE) exchange customs, trade, and data on air passengers. The information exchanged includes core data elements pertaining to all of the bilateral trade transactions, in all modes of transportation. The information is exchanged electronically under the bilateral Customs Mutual Assistance Agreement (CMAA), in effect since 1977 and renegotiated on June 20, 2000. Through the years, the SAT, the CBP, and the ICE have developed and implemented different mechanisms to collect and exchange such data, as well as different tools to mine and analyse it.

418. The SAT also maintains CMAAs in effect with 21 countries: Argentina, Belize, Canada, Chile, China, Costa Rica, Cuba, European Union, France, Guatemala, Hong Kong, India, Israel, Italy, Nicaragua, Russia, South Korea, Turkey, Philippines, Spain, and the U.S. Between 2010 and 2017, the SAT replied to 228 tax information requests from a range of countries.

Seeking other forms of international cooperation for AML/CFT purposes

419. Mexico participates in a number of specific initiatives with strategically important partners such as the U.S. (strategically important because of the threat of drug trafficking from transnational organised crime groups) with a view to facilitating international cooperation on illicit finance matters. As previously mentioned, some of these initiatives have taken the form of working groups or task forces, such as the BIFWG and the BPPBG.

420. The CNBV is the supervisor with the greatest need for constructive international engagement with counterparts, given the scope of its supervisory responsibilities. For several years, it had an informal arrangement with the Attorneys General in the U.S. South-Western States to exchange information on the activities of money remitters. This has now been transformed into a formal agreement, leading to three–four meetings each year to exchange views and address specific problems. More generally, the CNBV has over 80 MOUs with foreign supervisors, of which 22 have specific provisions relating to AML/CFT. Future MOUs will, for the most part, include provisions relating to AML/CFT. Regular requests, both inward and outward, have been made under the existing MOUs. Also relevant is its interaction with FinCEN, the OFAC, and the U.S. Office of the Comptroller of the Currency.

Providing basic and beneficial ownership of legal persons and arrangements established in Mexico

421. Difficulties in obtaining accurate and updated information and BO information related to legal persons have a negative impact on the assistance provided to other countries in this particular regard. Insofar as basic information is available in the RPC, it can also be accessed by foreign competent authorities (by virtue of its public nature). Measures provided for in criminal procedural law can also be used to provide basic and BO information in the context of international cooperation subject to MLA requests. However, Mexican competent authorities can facilitate access to the RFC and Public Registry of Property and Cadastre (RPPC) to foreign competent authorities only for tax purposes. Mexico received and granted a total of 46 foreign requests for basic and BO information between 2010 and 2017 through the RRAG (GAFILAT platform for the facilitation and localisation of assets, products, and instruments of illegal activities). No information was available on the quality of the feedback provided. Furthermore, from January 2015 to June 2017, the FIU received 229 BO information requests, involving 375 legal persons, 174 of which were Mexican legal persons.

Overall Conclusions on Immediate Outcome 2

422. **Mexico has achieved a substantial level of effectiveness for IO.2.**

TECHNICAL COMPLIANCE ANNEX

This annex provides a detailed analysis of the level of compliance with the FATF 40 Recommendations in their numerological order. It does not include descriptive text on the country situation or risks, and it is limited to the analysis of technical criteria for each Recommendation (R.). It should be read in conjunction with the Mutual Evaluation Report.

Where both the FATF requirements and national laws or regulations remain the same, this report refers to analysis conducted as part of the previous Mutual Evaluation in 2008. This report is available at www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20Mexico%20ful.pdf.

Recommendation 1—Assessing Risks and Applying a Risk-Based Approach

This is a new Recommendation.

Criterion 1.1— Mexico concluded its first NRA report in June 2016, following a two-year government-wide ML/TF risk assessment exercise. The first stage of the process was carried out by the FIU in coordination with and input provided by other competent authorities including lawmakers, supervisors, Banco de México, INEGI, intelligence services, LEAs, and PGR. It was based on a range of information and documents, most notably reports on suspicious and threshold transactions which are given considerable weight in the assessment. During the second stage, the FIU received input from the private sector through surveys and questionnaires that focused on inherent ML/TF risks of FIs and DNFBPs and their activities. The NRA covers structural factors (including corruption) and issues related to the effectiveness of the AML/CFT framework. The assessment focused on ML risks (mainly from domestic criminal activities), POC that need to be laundered, and sectors affected by ML. The document also includes an assessment of the economic consequences of ML/TF.

The NRA concludes that all types of legal persons have the same level of ML/TF risks (based on similarity in registration requirements for domestic entities), but there is no specific analysis to support this assumption, and the assessment does not cover risk from foreign legal entities. Not all competent authorities share the NRA's analysis on legal entities. Finally, the NRA does not identify ML/TF trends and typologies related to the informal economy (which is substantial in Mexico) or attempt to prescribe the amounts of POC generated abroad and laundered in or through Mexico, in particular from Central America and the Caribbean. Finally, authorities could have presented the corruption-related ML risks with more clarity and depth.

Criterion 1.2— The FIU is the coordinating authority for the elaboration and updating of the NRA. The 2015–2016 FIU work plan indicates that it is responsible for drafting and coordinating the NRA among concerned agencies, FIs, and DNFBPs.

Criterion 1.3— Mexico has committed to updating the NRA every three years or whenever there are significant developments that could impact the ML/TF risk profile of the country.

Criterion 1.4— Based on two MOUs, since September 2016 the FIU and regulatory and supervisory authorities have organised multiple workshops for reporting entities to communicate the results of the NRA and the higher ML/TF risks identified to which they have to pay additional attention. The FIU prepared a sanitised version of the NRA that was communicated to reporting entities through

the FIU portal at the end of September and beginning of October 2016 and published on the federal government website (see: www.gob.mx/cms/uploads/attachment/file/165030/ENR.pdf).

Risk Mitigation

Criterion 1.5— There are two collaboration agreements concluded among SEGOB, SRE, SHCP, PGR, Consejo de la Judicatura Federal (CJF), and Banco de México per which public policies for preventing and combating ML/TF/PF must take risks into account when allocating resources. CNBV, CNSF, and CONSAR have each implemented a risk-based approach (RBA) to prioritise their supervisory activities to focus on reporting entities identified as being of higher risk (see criterion 26.4). This approach has not yet been implemented by the SAT but it is moving in this direction. The FIU has elaborated and updated a risk model that helps it identify STRs and other reports that are most relevant for further analysis for potential ML/TF cases. This experience has been positive as further explained under R.29. LEAs and the PGR do not appear to put the RBA in use or to allocate their resources for ML/TF investigations and prosecutions on a risk basis.

Criterion 1.6— Mexico does not exempt any activities covered in the standard from AML/CFT requirements.

Criterion 1.7— DNFBPs and FIs categorised as VAs (see "general information on preventive measures for the financial sector" before R.9 for the definition of this term) are required to consider notices and guidance from the FIU in their own risk assessments in order to determine lower risk situations. However, the regulatory framework does not require FIs and DNFBPs to take enhanced measures to manage and mitigate the higher risks identified by the authorities or to ensure that this information is incorporated in their risk assessments (even though these risks are communicated to the private sector; see criterion 1.4)

Criterion 1.8— To foster financial inclusion, Mexico allows simplified due diligence for the opening of certain accounts at FIs subject to certain safeguards, as illustrated in the Table 1 below.

Table 49**. Accounts with Simplified Due Diligence Requirements**

Accounts	Cap		Offered by (type of FI)	Restrictions of services	Applicable measures
	Maximum transaction within a calendar month	Maximum account balance			
Level 1	750 UDI (approximately USD 224) [87]	1 000 UDI (approximately USD 300)	Banks	• Deposits only (on debit cards) • National currency only • Available only to natural persons • Use only in Mexico • Use only through ATM or point of	No identification of customers or beneficial owners.

[87] In the case of funds derived from the application of government support programs targeted at certain sectors of the population, entities may receive funds from such programs up to 6 000 UDI (approximately USD 1 800) per client within one calendar month in addition to the general cap.

Accounts	Cap		Offered by (type of FI)	Restrictions of services	Applicable measures
	Maximum transaction within a calendar month	Maximum account balance			
				sale terminal • No wire transfer allowed	
Level 2	3 000 UDI (approximately USD 900)[1]	-	Banks, brokerage firms	• Deposits, management of securities, investments, microcredits[2] • National currency only • Available to natural persons only	Basic identification of customers (name, address, date of birth); no identification of beneficial owners.
	1 000 UDI (approximately USD 300)	-	SOCAP, SOFIPO		
Level 3	10 000 UDI (approximately USD 3 000)	-	Banks, brokerage firms, SOCAP, SOFIPO	• Deposits, management of securities, investments, microcredits[3] • National currency only	Full identification of customers but no identification of beneficial owners of legal persons.

Table notes:
1. Ibid.
2. For microcredits, the maximum limits will be those applied for the credit line or amount granted to clients and will only be applicable to natural persons.
3. Ibid.

The above FIs are further subject to the following requirements: (i) to understand the purpose and intended nature of the business relationship; and (ii) to monitor transactions and review account profiles (see criteria 10.6 and 10.7).

According to analysis conducted by the authorities, these accounts are deemed to be of low risk, and average monthly balances are found to be well below the caps for Level 1 accounts. In particular, the average balance of Level 1 accounts was as low as MXN 120 (around USD 6.8), while the active accounts numbered around 3.2 million, and the total amount held in these accounts was around USD 22 million, which is of a small size relative to that of the whole financial sector. The FIU has not detected any cases in which Level 1 or Level 2 accounts have been misused for ML or TF. There has been no analysis on Level 3 accounts.

Criterion 1.9— FIs and DNFBPs are supervised for their compliance with R.1 requirements that are established in Mexico and are subject to sanctions for non-compliance. (see write-up for R.26 and R.28).

For FIs and DNFBPs: Risk Assessment

Criterion 1.10— Most FIs are required to risk categorise their customers and review and adjust their customers' risk profiles at least twice a year, as needed (see criteria 10.7 and 10.17) and to make all the information and documents available to the supervisors. They are, however, not required to (i) take all relevant factors (such as type of customers, products/services, geographical regions, or delivery channels) into account in the risk profiling; or (ii) document their analysis (see criterion 11.2). DNFBPs and FIs categorised as VA are not required to assess ML/TF risks but are permitted to establish criteria and elements to identify low risks (see criterion 22.1).

Criterion 1.11— Most FIs are required to have policies and procedures for the implementation of their obligations, including those related to risk categorization of customers and due diligence based on the level of risks. There is, however, no requirement for these policies and procedures to be approved by senior management or for the management to monitor implementation and enhance controls as needed. Most FIs are also generally required to conduct due diligence based on level of risks and to obtain more information on the origin and destination of funds and the intended nature of transactions for customers categorised as high risk (see criterion 10.17). DNFBPs and FIs categorised as VA are required to have AML/CFT policies and procedures but are not subject to requirements for criterion 1.11 (a), (b), or (c).

Criterion 1.12— Certain FIs and DNFBPs are permitted to take simplified measures in circumstances other than those discussed under criterion 1.8 based on entities' analysis using criteria defined in their policies (including maximum amount of transactions). For these FIs, supervisors may review the policies and order modifications of the criteria. For DNFBPs and FIs categorised as VA, such criteria must be developed in accordance with guidance provided by the FIU (see criteria 10.18 and 22.1). There is no prohibition on the use of simplified measures when there is a suspicion of ML/TF.

Weighting and Conclusion

Mexico does not provide a comprehensive assessment of laundering of proceeds of corruption and TF. Additionally, the NRA does not present a grounded view of the risks associated with misuse of the legal persons and arrangements. The requirements for FIs and DNFBPs to assess ML/TF risks and apply enhanced measures including where higher risks are identified by the authorities are also deficient. Lastly, there is no prohibition of simplified AML/CFT measures where there is a suspicion of ML/TF.

Mexico is largely compliant with R.1.

Recommendation 2—National Cooperation and Coordination

Mexico was rated LC on national coordination (former R.31) in the previous report. The main deficiencies were related to the reorganization of the federal forces of investigation a year prior to the assessment that created transitional coordination and cooperation challenges between these forces and prosecutors, and the absence of effective joint cooperation or coordination mechanisms between the PGR and the Judiciary to implement joint policies and to conduct activities aimed at fighting organised crime. As described below, these issues have been addressed over the past years.

Criterion 2.1— On August 26, 2010, the federal executive branch made public the National Strategy for Preventing and Combating ML/TF, and in its 1st Guiding Principle entitled "Information and Organization" it established three lines of action: i) generation, management, and use of information; ii) creation of specialised cells for combating ML/TF; and iii) organizational strengthening. The main purpose of the actions identified in the 2010 national strategy was to increase the capacity of all competent authorities to prevent and combat ML/TF. One major issue identified in that strategy was to ensure a sufficient level of cooperation among such authorities and to provide them with adequate resources. Mexico has other national programs that complement the AML/CFT Plan, in which ML/TF are also identified. However, the 2010 National Strategy did not take into consideration any NRA. Mexico is in the process of updating the national strategy to address ML/TF risks identified in the NRA. The country has already adopted a number of AML/CFT policies and actions (through the High-Level Groups) in response to the results of the NRA. However, according to the Mexican Planning Law (LP), each administration must elaborate its National Plan of Development and their Programs every six years. The development of the next AML/CFT strategy will be the responsibility of the next administration starting in 2018.

Criterion 2.2— The FIU of the SHCP is the national authority appointed to coordinate AML/CFT policies. In addition, the signing of two MOUs took place, with the purpose of elaborating, establishing, reviewing, and evaluating the public policies for preventing and combating ML/TF/WMD, with the participation of concerned agencies (SEGOB, SRE, SHCP, PGR, and Banco de México). In this regard, the High-Level Group on AML and the High-Level Group on CFT and PWMD work on the basis of these agreements.

Criterion 2.3— Besides the coordinating role of the FIU, several other coordination mechanisms and agreements exist. For example, the SAT entered into agreements with the SSP, CNS, the Secretaría de Marina (SEMAR), the PGR, and the Federal Police. In addition, the FIU has subscribed diverse agreements with concerned authorities to facilitate efficient coordination and exchange of information. The FIU has subscribed diverse agreements, bases, or instruments of collaboration with distinct authorities and companies to facilitate efficient coordination and exchange of information (e.g., PGR, CNBV, INAMI, CONSAR, IFE, INE, SE, SAT, SEMAR, Banco de Mexico, Federal Judiciary Council, CNTS, SEGOB, and IMSS, among others). Coordination between these bodies is carried out with the purpose of preventing and detecting ML/TF acts or transactions. The purpose of the MOUs is to exchange information between the FIU and other international bodies, as well as between the PGR and other countries.

Criterion 2.4— The collaboration and coordination mechanisms listed in the previous criteria, which are available to the FIU, authorities in charge of law enforcement, and supervisors and other competent authorities, are being used to prevent and combat the financing of WMD, as well as ML/TF crimes. Additionally, Mexican authorities worked on both the mechanisms as well as the public policies necessary to enhance the appropriate regulatory framework, in accordance with the international standards, of cooperation and coordination on matters of combating WMD financing. Specifically, the SHCP, SEGOB, SRE, PGR, Banco de México, and the CJF signed agreements that created the High-Level Groups for combating ML/TF/PMD. Also, the Agreement with the CSN was signed on May 28, 2007, by which a specialised high-level committee was established to coordinate the actions of the federal executive branch to fulfil the international obligations of the Mexican State at the national-domestic level on matters of disarmament, terrorism, and/or international security.

Weighting and Conclusion

Mexico finalized its NRA in June 2016 and has carried out some high-level actions to mitigate the risks identified. However, authorities have explained that they are further developing a national strategy that will incorporate additional measures to address all findings of the NRA and establish clearer priorities.

Mexico is largely compliant with R.2.

Recommendation 3—Money Laundering Offence

In the Third Round MER of 2008, Mexico was rated partially compliant for R.3. The main shortcoming identified was that ML did not cover the concealment or disguisement of the true nature, source, location, disposition, movement, or ownership of or rights with respect to property or the possession or use of property without a specific purpose. Furthermore, under Mexican law, criminal liability did not extend to legal persons as required by the Palermo Convention (Article 10). The 7th Follow-up Report adopted in 2014 concluded that the first shortcoming had been corrected by a bill of decree, which came into force in 2014. Since then, Mexico has made a number of further changes of relevance to the criminalization of ML. These include amendments to the CPF in March 2014 (Articles 400 Bis and 400 Bis 1) and in June 2016 (Article 11 Bis) in order to bring Mexican law in line with the Palermo and Merida Conventions and to establish criminal liability for legal persons with respect to certain offences (including ML).

Criterion 3.1— ML is criminalised under Articles 400 Bis and 400 Bis 1 of the CPF, as amended in 2014. It covers all premises and guiding verbs in line with the Vienna and Palermo Conventions, in particular concealment or disguisement.

Criterion 3.2— ML has been an offence in Mexico since 1989 and was originally framed as a fiscal offence under Article 115 Bis of the Federal Fiscal Code. Following the repeal of that article in 1996, ML came to be enshrined in Article 400 Bis of the CPF as the crime of "operations with resources from illegal origins" ("ORPI"), which remains in force today. Article 400 Bis of the CPF is an all-crimes ML offence that criminalises the laundering of the proceeds of any conduct criminalised under Mexican law. Accordingly, the predicate offences for ML extend to all offences under Mexican legislation which are capable of generating property of illegal origin. Furthermore, the 21 categories of predicate offences are criminalised under the Mexican Criminal Code and other legal instruments.

Criterion 3.3— Not applicable.

Criterion 3.4— ML offences extend to "property," which is defined under Article 400 Bis of the CPF as "resources, rights or assets of any nature." For the purposes of that article, "it is understood that resources, rights or assets of any nature are the product of an illegal activity when there are solid grounds or certainty that they derive, directly or indirectly from, or that they represent the earnings of a crime, and their legitimate origin cannot be established." The CPF does not impose any value threshold for property. Accordingly, the definition of "property" under Mexican law is sufficiently broad to cover property of any kind that directly or indirectly represents the POC.

Criterion 3.5— Article 400 Bis of the CPF does not require that a person be convicted of a predicate offence in order for property to be considered POC. The prosecution only needs to demonstrate well-

founded indicia or the certainty that property is derived directly or indirectly from a crime or that it represents the earnings deriving from the perpetration of a crime.

Criterion 3.6— Article 2 of the CPF provides that the CPF applies to offences that are initiated, prepared, or committed abroad where they produce or seek to produce effects in Mexico. Since criminal proceeds generated abroad have an effect in Mexico when laundered there, such ML conduct could be prosecuted and penalised under Article 400 Bis notwithstanding the fact that the predicate offence occurred in another country.

Criterion 3.7— Articles 400 Bis and 400 Bis 1 of the CPF criminalise ML as a fully autonomous offence. These provisions do not exclude persons who commit the predicate offence from being held criminally liable for ML. Accordingly, the ML offence may be committed by any person, including the offender who commits the predicate offence.

Criterion 3.8— The Mexican authorities refer to Articles 400 Bis and 400 Bis 1 of the CPF, Articles 259, 265, and 286 of the CNPP as the legal basis for compliance with this criterion in order to conclude that, under Mexican law, it is possible to infer the intent and knowledge required to prove ML from objective and factual circumstances. It is not immediately clear from these provisions that it is possible to infer from the circumstances that a person has a particular intent or knowledge. Nonetheless, the case law demonstrates that the courts may indeed infer the intent or knowledge.

Criterion 3.9— Article 400 Bis of the CPF provides that natural persons are liable to imprisonment of between five and fifteen years and a fine of between 1 000 and 5 000 days at the stipulated daily rate ("día multa") upon conviction. The ML penalties are proportionate in light of those provided for other offences (e.g., drug trafficking, smuggling, or tax evasion). In addition, Article 51 of the CPF enables the sentencing courts to take account of the individual circumstances of both the commission of the offence and of the perpetrator. Furthermore, Article 52 of the CPF enables the courts to take account of a range of specific mitigating and aggravating circumstances when determining the penalty to be imposed, such as the extent of the harm caused to the legal interest protected by the offence or the means used to commit the offence. These two provisions provide assurances regarding proportionality and dissuasiveness in light of the seriousness of the ML offence perpetrated and the circumstances of the offender. As a final point, Article 4 of the Federal Law Against Organised Crime (LFCDO) as read with Article 2 thereof provides that where three or more persons in a de facto organization perform, on a permanent or recurrent basis, conduct that by itself or jointly with other conduct has as its purpose or as its result the commission of a number of offences, including ML, they may be liable to receive an additional conviction, over and above the ML conviction, which attracts longer terms of imprisonment and higher fines. This is a further illustration as to how the courts can match the penalty to the heightened seriousness of the offence where committed by an organised crime group.

Criterion 3.10 — Criminal liability and sanctions apply to legal persons under Mexican law. Article 11 Bis of the CPF contains a closed list of the offences for which legal persons may be held criminally liable, which includes ML (Article 11 Bis A XIV). Article 421 of the CNPP lays down the procedures for criminal action against legal persons, whereby they will be held criminally liable for offences committed on their behalf, directly by them, or for their benefit, or for using means provided by them where there has been a lack of proper control within the organization. This form of liability is independent of any criminal liability which may attach to natural persons involved in the commission of the offence in question. The criminal liability of legal persons cannot be evaded even if the entity changes its corporate form, for example through merger or absorption. Article 422 of the

CNPP lays down a range of penalties considered to be dissuasive and proportionate, including fines, confiscation, and dissolution. In determining the specific penalty, the courts are able to take a number of factors into consideration, thereby providing assurances as to proportionality and dissuasiveness. Those factors include the financial extent of the offence, the turnover of the entity, and the public interest in the social and economic consequences of the offence.

Criterion 3.11 — The offence or attempt, being an accessory after the fact, assisting, aiding and abetting, instigating, and preparing are all covered by the CPF (Articles 12 and 13) and can be applied to ML. Conspiracy is also covered by Article 13.1 of the CDF in the form of "agreement or preparation to commit an offence."

Weighting and Conclusion

Mexico is compliant with R.3.

Recommendation 4—Confiscation and Provisional Measures

In its Third Round MER, Mexico was rated largely compliant for former R.3. At the time, there were shortcomings in relation to i) the lack of a legislative provision to provide for the ability to forfeit assets of equal or corresponding value; and ii) the lack of criminal laws/tools for preventing or voiding contracts and actions that diminish the ability to recover assets subject to forfeiture.

Criterion 4.1 — Mexican laws provide for the ability to a) confiscate (decomiso), b) forfeit (extinción de dominio), or c) abandon (abandono) property or assets laundered; the proceeds of, or instrumentalities used (including income) or intended for use in ML, TF, or, predicate offences (Art. 40 of the CPF, Art. 4 of the LFDO, Arts. 181–187 of the CFPP, Arts. 2–8 of the LED, and Art. 250 of the CNPP); and property of corresponding value (Art. 40 of the CPF and Art. 249 of the CNPP). The above-referred provisions are applied regardless of whether the property is held or owned by a convicted person or by a third party. The assets forfeiture action has a property character and a financial content and will proceed on any property, regardless of who possess it or has acquired it (Art. 5 of the LED).

Criterion 4.2 — LEAs, the FIU, or other competent authorities have adequate powers to do the following:

a) Identify, trace, and evaluate property that is subject to confiscation under Art. 180 of the FCPP, Arts. 127 and Art. 131 of the CNPP, and Art. 9 of the LFCDO. In addition, Art. 46 of the LIC, Art. 55 of the LFI, and Art. 212 of the LMV require the institutions to provide information on transactions and services as appropriate to identify the movement of funds, without violating banking and fiduciary secrecy, when requested by competent authorities;

b) Carry out provisional measures, such as freezing or seizing, to prevent any dealing, transfer, or disposal of property subject to confiscation (Arts. 11, 29, and 30 of the LFCDO; Arts. 12 and 13 of the LED; and Arts. 131, 138, 155, and 229–249 of the CNPP); and

c) Take any appropriate investigative measures, (Arts. 9–12 and 16–18 of the LFCDO; and Arts. 131, 251–252, and 291–299 of the CNPP), including special investigative techniques under R.31.

However, although Mexican legislation provides a range of powers for attaching, seizing and forfeiting, and confiscating property and assets, there are no specific provisions to prevent or to void certain legal actions that prejudice the country's ability to freeze, seize, or recover property that is subject to confiscation (criterion 4.2.c.).

Criterion 4.3 — The rights of bona fide third parties are protected under the various Mexican laws, such as the FCPC (Art. 182 L), LFCDO (Art. 29), LED (Art. 11), and the Federal Law for the Administration and Sale of Assets of the Public Sector (LFAEBSP) (Art. 17), which contain provisions that protect the rights of innocent third parties acting in good faith.

Criterion 4.4 — The SAE, under the Federal Law for the Administration and Sale of Assets of the Public, administers, manages, and sells assets subject to attachment, seizure, abandonment, confiscation, and forfeiture (Art. 1–5 of the LFAEBSP and Art.13 of the LED).

Weighting and Conclusion

Mexico's legal framework related to confiscation and provisional measures generally meets this Recommendation. However, there are no specific provisions in the law to prevent or to void certain legal actions that prejudice the country's ability to freeze, seize, or recover property that is subject to confiscation.

Mexico is largely compliant with R.4.

Recommendation 5—Terrorist Financing Offence

In the Third Round MER of 2008, Mexico was rated partially compliant for R.5. The main shortcomings identified were that (i) the TF offence enshrined in Article 148 Bis of the CPF was not fully consistent with Article 2 of the TF Convention because it "only focused on what was used for the act and not on the intention of the act and required showing, rather than a purpose that the act generated alarm, fear, or terror to a population"; and (ii) while the TF offence covered the financing of a significant number of terrorist acts, it did "not extend to the financing of the acts that constitute an offence within the scope of, and as defined in the treaties listed in the annex of the TF Convention." The 7th Follow-up Report adopted in 2014 concluded that both shortcomings were sufficiently addressed by a bill of decree which came into force in 2014. This bill made changes to the criminalisation of terrorism and TF, rendering it fully consistent with Article 2 of the TF Convention.

Criterion 5.1 — Mexico's TF offences are set out in Articles 139 to 139 Quinquies of the CPF. The most relevant of these is Article 139 Quáter as read with Articles 139 and 148 Bis, which criminalises the direct or indirect provision or the collection of economic funds or resources of any nature in the knowledge that they will be used to finance or support activities of terrorist individuals or organizations or in order to be used directly or indirectly, in whole or in part, in the commission of terrorist activities in Mexico or abroad. This is fully in line with Articles 2(1) and (3) of the TF Convention.

Criterion 5.2 — As indicated above, Article 139 Quáter also covers the provision or collection, by any means, of funds to finance or support activities of terrorist individuals or organizations in order to be used, directly or indirectly, in whole or in part, in the commission of terrorist activities in Mexico or abroad.

Criterion 5.2bis — Whilst Mexican law does not make specific provision for the criminalisation of financing the travel of individuals for the purpose of perpetrating, planning, and so on of a terrorist act or for providing or receiving terrorist training, the provisions cited by the Mexican authorities, in particular Article 139 quáter, are sufficiently extensive to punish such conduct and to meet the requirements of this criterion.

Criterion 5.3 — It is clear from the wording of Article 139 quáter that the TF offence extends to the provision or collection of economic funds or resources of any nature, without there being any restriction on the origin of those funds. That term is also in line with the definition of "funds" as set out in Article 1(1) of the TF Convention.

Criterion 5.4 — Under Article 139 quáter, TF is a standalone offence and, in order to be proven, does not require the subsequent commission or attempted commission of a terrorist act, nor does it require any link to a specific terrorist act. The wording of this provision is sufficiently flexible to meet these two requirements under criterion 5.4.

Criterion 5.5 — The Mexican authorities refer to general provisions relating to the assessment of evidence by the court and the freedom to determine the weight to be placed on a given item of evidence in order to conclude that it is possible to infer the intent and knowledge required to prove TF from objective and factual circumstances. "As indicated in relation to criterion 3.8 above, it is not immediately clear from these provisions that it is possible to infer such intent and knowledge. However, it is apparent from the case-law concerning ML that this is indeed possible and there is nothing to suggest this general principle could not also be applied to TF.

Criterion 5.6 — Article 139 quáter as read with Article 139 provides that natural persons are liable for imprisonment of between 15 and 40 years and a fine of between 400 and 1,200 days at the stipulated daily rate upon conviction for TF. TF penalties are proportionate in light of penalties for other offences. As explained in criterion 3.9, Articles 51 and 52 of the CPF enable the sentencing courts to take account of individual circumstances, thereby providing assurances regarding proportionality and dissuasiveness in light of the seriousness of the TF offence perpetrated and the circumstances of the offender. Additionally, as mentioned in criterion 3.9, Article 4 of the LFCDO, as read with Article 2, thereof provides that where three or more persons in a de facto organization perform, on a permanent or recurrent basis, conduct that by itself or jointly with other conduct has as its purpose or as its result the commission of a number of offences, including TF, they may be liable to receive an additional conviction, over and above the TF conviction, which attracts longer terms of imprisonment and higher fines. This is a further illustration as to how the courts can match the penalty to the heightened seriousness of the offence where committed by an organised crime group.

Criterion 5.7 — Criminal liability and sanctions apply to legal persons under Mexican law, subject to Article 11 Bis of the CPF which contains a closed list of the offences for which legal persons may be held criminally liable. Although domestic and international terrorism are included (Article 11 Bis A I), TF is not. This is not in line with Article 5 of the TF Convention (see criterion 36.2).

Criterion 5.8 — Articles 12 and 13 of the CPF cover the ancillary offences of attempting, participating, aiding, and abetting. These are general provisions which apply to all offences. Attempt, as required under Article 2(4) of the TF Convention, is covered by the general provision on attempt set out in Article 12 of the CPF, while participation, organization, and contribution, as required under Article 2(5) of the TF Convention, are covered by Article 13 of the CPF. Additionally, in the case of TF,

the CPF makes specific provision for other ancillary offences such as being accessory after the fact (Article 139 Quinquies), conspiracy (Article 141), and instigation (Article 142).

Criterion 5.9 — Since Article 400 Bis of the CPF is an all-crimes ML offence that criminalises the laundering of the proceeds of any conduct criminalised under Mexican law, the predicate offences for ML extend to all offences under Mexican legislation which are capable of generating property of illegal origin, including TF.

Criterion 5.10 — It appears from a combined reading of Articles 2, 4, and 139 Quáter of the CPF that the only (remote and theoretical) circumstance in which the TF offence would not apply would be in an instance where a foreign financer operating outside of Mexico finances a terrorist act against non-Mexicans outside of Mexico. In all other scenarios, the TF offence would apply.

Weighting and Conclusion

The CPF does not include TF among the offences for which legal persons may be held criminally liable.

Mexico is largely compliant with R.5.

Recommendation 6—Targeted Financial Sanctions Related to Terrorism and Terrorist Financing

In its Third Round MER, Mexico was rated non-compliant on SRIII (TF-related TFS).

Mexico subsequently passed relevant amendments (January 10, 2014) and a TFS resolution (January 22, 2014), putting in place a comprehensive system for the freezing of funds or other assets pursuant to UNSCRs 1373 and 1267. In addition, the CANDESTI, was created by a resolution published in the Official Gazette of the Federation on May 28, 2007. The CANDESTI became the national agency responsible for coordinating actions to comply with the international obligations of the Mexican State with regards to disarmament, anti-terrorism, and international security. It is integrated by the SEGOB, SHCP, SRE, Secretaría de la Defensa Nacional (SEDENA), SEMAR, Secretaría de Comunicaciones y Transportes, and PGR. The CANDESTI has different working subgroups, including Task Force on Terrorism, which are responsible for identifying and proposing natural and legal persons to be considered by the appropriate UN Security Council (UNSC) Committees for designation. The CANDESTI is also in charge of issuing guidelines for establishing designation and de-listing criteria. The CANDESTI's Task Force on Terrorism is additionally in charge of designating persons or entities pursuant to UNSCR 1373, in which cases it must immediately inform the FIU of these designations so that the FIU can include those persons or entities in its BPL and LPV (TFS lists) for the implementation of financial sanctions.

Criterion 6.1—

a) The CANDESTI Task Force on Terrorism is responsible for issuing proposals for designations of natural persons, legal persons, or organizations pursuant to UNSC Resolutions 1267/1989 and 1988.

b) The CANDESTI Task Force Guidelines establish clear procedures for identifying natural persons, legal persons, or organizations when they meet any of the designation criteria

required by UNSC Resolutions 1267/1989/2253, 1988 and its successors, and the Task Force makes proposals according to the corresponding UNSC Committee through the SRE.

c) The CANDESTI Task Force Guidelines state that in order to assess the feasibility of a proposal, the Task Force should apply an evidentiary standard of proof of "reasonable grounds" or of "reasonable basis" and that the proposal should not be conditional upon the existence of a criminal procedure or a sanction.

d) The CANDESTI Task Force Guidelines state that the SRE should proceed according to the procedures and forms adopted by the corresponding Sanctions Committees of the UNSC. If the proposal for designation is approved by the Task Force, the SRE will request the inclusion or the exclusion, as appropriate, to the Sanctions Committee following the appropriate procedures for listing.

e) The CANDESTI Task Force Guidelines establish the requirements, including minimum information that must be included, when submitting a proposal for designation to the corresponding committee. A proposal for inclusion must include a) a detailed statement of facts showing that the Assumptions for Inclusion are met; b) any fact, circumstance, or detail that links or connects individuals, groups, companies, or entities whose listing is proposed with others previously included in the Sanctions Lists; c) any relevant information regarding the acts, activities, address, nationality, residence, identification data, and location of the persons concerned; d) evidence, if any, to prove the facts, and e) any other requirements arising from UNSCR 1267 (1999) and its successors and UNSCR 1988 (2011) and its successors.

Criterion 6.2—

a) The CANDESTI Task Force on Terrorism is the authority responsible for designating natural persons, legal persons, or organizations pursuant to UNSC Resolution 1373, including for third party requests. When designations take place, the CANDESTI must immediately inform the FIU so that the FIU can include the designated parties in its TFS Lists for subsequent implementation of financial sanctions.

b) The CANDESTI Task Force Guidelines establish the procedure for making designations pursuant to UNSCR 1373. The mechanism for identifying targets for designation is as follows: (i) Any member of the Task Force on Terrorism can submit a written proposal for designation and include any available information indicating how the person or entity meets the criteria for designation established by Committee 1373.; (ii) If the proposal meets the requirements, the various members will provide supporting information, based on their respective authorities, about the proposed person or entity; (iii) If the Task Force determines that the proposal meets the criteria for designation, it will make the designation and notify the FIU so that the FIU can in turn include the designated parties in its TFS Lists and disseminate it to reporting entities through established channels; (iv) Regarding third party requests for designation made by foreign authorities, the FIU receives the requests and conducts a prompt examination to determine whether a request is based on reasonable grounds or whether it is reasonable to suspect or believe that the designation criteria established by the resolution are satisfied and, in such a scenario, will determine their inclusion in the list of TFS for implementation of corresponding sanctions.

c) The CANDESTI Task Force on Terrorism Guidelines establish a mechanism whereby the FIU, upon receipt of the proposal and verification that the request is supported by "reasonable grounds," must immediately include any natural person, legal person, or organisation that meets the criteria for designation within the TFS Lists in line with the requirements of UNSCR 1373. The FIU is also the point of contact for the Asset-Freezing Contacts Request Database implemented by the United Nations Counter-Terrorism Committee Executive Directorate. The said database includes a broad number of points of contact from Member States and was created in order to facilitate communication between authorities responsible for the implementation of TFS pursuant to UNSCR 1373. The FIU also has the authority to request information from relevant national and international authorities regarding third party requests.

d) The CANDESTI Task Force on Terrorism Guidelines state that in order to assess the feasibility of a proposal, the Task Force should apply an evidentiary standard of proof of "reasonable grounds" or "reasonable basis" and that the proposal should not be conditional upon the existence of a criminal procedure or a sanction.

e) The CANDESTI Task Force Guidelines establish that the FIU is responsible for requesting foreign governments to apply TFS pursuant to UNSCR 1373 and the FIU must provide as much identifying information as possible to support the designation. Only in exceptional cases could this request be made through diplomatic channels. Examples of this could include the following scenarios: when it is not possible to send the request via the FIU to a specific country, or when the request is made by a foreign country through diplomatic channels and such a country requests the response to be provided through the same channel, or if the requested country did not reply to the FIU within a reasonable timeframe.

Criterion 6.3 —

a) The CANDESTI Task Force on Terrorism is the authority responsible for collecting and soliciting information to identify persons and entities that meet the criteria for designation, but it delegates this responsibility to the FIU.

b) The CANDESTI Task Force Guidelines establish the procedures, requirements, and minimum information that should support a proposal for designation. These procedures do not require that the person, entity, or organization being proposed or designated be notified. Thus, as it relates to the identification—and, where appropriate, designation—there is no need for notification of the designation or the asset freezing. Additionally, the designation process is managed by the CANDESTI Task Force on Terrorism, which is composed of agencies that are obliged to comply with the protection of classified information provisions set forth in Articles 4, 50, 51, 53, 61, and 64 of the National Security Act and Article 11, section VI and 110, section I of the Federal Transparency and Access to Public Information Act. Moreover, Article 53 of the National Security Act establishes that public officers having access to information related to national security have to sign a written commitment of confidentiality that is to be upheld at all times, including after having resigned from the position under which they had access to the said information. This is the case for the members of the CANDESTI. Also noteworthy is the fact that throughout this process, no information is shared with any person or entity other than the agencies that make up the group under the legal standards of information security that are required for classified information. Consequently, these

procedures operate ex parte from analysis, deliberation, proposal, or designation to the application of TFS.

Criterion 6.4 — The FIU's Internal Procedures Manual details each of the activities carried out by the various parties of the FIU involved in the procedure for matching the lists issued by the UNSC by which it systematically obtains the additions, de-listings, and modifications made to the Consolidated List of UNSC Sanctions. This facilitates the implementation of measures on each one of the names contained in the list as stipulated by the corresponding Sanctions Committee and accelerates reaction times of the FIU to these additions, de-listings, or modifications to the lists. In addition, once the Permanent Mission of Mexico before the UN receives an update to the lists of the relevant committees, it communicates simultaneously to the SRE and all the relevant agencies the pertinent amendment, addition, or de-listing of individuals contained in such lists. In the case of TFS, the FIU communicates any addition, amendment, or de-listing of individuals or entities to the reporting entities that must perform the blocking and immobilization immediately. Accordingly, the suspension of acts, transactions, or services as well as blocking and immobilization of resources, rights, or property is carried out within 24 hours of the moment that the FIU identifies the designations, amendments, or de-listings of individuals or entities in accordance with the aforementioned mechanisms. The CNBV and the CONSAR perform this notification within a few hours. In the case of the CNSF, which supervises the insurances and bonding companies, the process used to last from 24 to 72 hours. The CNSF has more recently reviewed its procedures and since October 2016 to date, it has reduced the time to a few hours, in line with the other supervisory authorities and the FATF Standards expectation.

Criterion 6.5 —

a) Reporting entities are notified within 24 hours when an individual or an entity is added to the TFS Lists and they are obligated to immediately freeze all funds and assets. The SHCP has two mechanisms for this: The BPL, applicable to the financial sector, and the LPV, applicable to DNFBPs, which are listed in Article 17 of the Federal Law on the Prevention and Identification of Transactions with Illicit Proceeds (LFPIORPI). The SHCP makes the lists available to the reporting entities through the CNBV, CONSAR, CNSF, and the SAT. FIs and DNFBPs must identify customers or occasional customers that are on the list and immediately suspend any transaction or service related to these customers. The reporting entities must then submit an STR to the FIU within 24 hours from the moment this information becomes known. Additionally, through an FIU agreement (referred to as Acuerdo FIU/CSNU in Annex 101 of the index of principal laws of the Technical Compliance), the general population was informed via publication in the national Gazette on the public website where they can check for names of persons and entities designated under UNSCR 1267 and its successors, UNSCR 1373, and other UNSC sanctions lists (and updates to those lists). The general population is informed that in accordance with the resolutions issued by the UNSC, the execution of any act, transaction, or service with the persons on the lists is prohibited and can constitute a TF offence. The population is also informed that in the event that any listed persons attempt to execute any act, transaction, or service, the public may inform the FIU.

b) The freezing obligation extends to all funds or other assets that are owned or controlled by the designated persons or entities listed in the TFS lists, and not just those that can be tied to a particular terrorist act, plot, or threat. This prohibition also extends to any third party acting in

the name or on behalf of the designated person or entity, as well as to funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by the designated person or entity, and those of individuals and entities acting on behalf of or under the instructions of designated persons or entities.

c) Designated persons and their associates are banned from using the financial system or DNFBPs. The FIU notifies the supervisors of new additions to the BPL, and supervisors communicate this to their respective reporting entities, including FIs and DNFBPs. The FIU also publicises the names of individuals or entities designated by the UNSC through the publication of lists in the Federal Official Gazette and on the SHCP website (FIU agreement issuing the lists of individuals or entities designated by the UNSC).

d) The FIU is the authority responsible for communicating designations and subsequent obligations to the financial sector and DNFBPs. The list is communicated to all reporting entities via the supervisors, and the entities are then legally obligated to immediately freeze the funds or other assets and block any transactions of designated parties. The obligation is to freeze the funds or assets "without delay"—within 24 hours of the notification to the reporting entities.

e) Reporting entities, including DNFBPs and FIs are obligated to report to the FIU any assets frozen or other actions taken to comply with their freezing obligations. Reporting entities are additionally obligated to send an STR to the FIU within 24 hours of suspending the execution of acts, transactions, or services with any designated entities or individuals. This reporting is made directly to the FIU by DNFBPs and via the relevant supervisors by financial entities (72nd of the DCGIC and the correlatives for the rest of the financial sector). Article 5 of the RES-Bloqueo/UIF/14 establishes that DNFBPs have to inform the FIU of the preventive measures they have taken when they identify a customer or an occasional customer in the LPV, including the suspension of transactions with said customers and the immediate and preventive immobilization of the resources, rights, or assets of the persons listed within 24 hours after they have been adopted. This information is presented to the FIU electronically through a 24-hour notice and using the official format for the presentation of notices corresponding to the AV that has identified its customer or occasional customer within the LPV.

f) With regards to financial institutions, according to Article 75 of the DCGIC (and the equivalent articles applicable to non-bank FIs), the SHCP can grant a designated natural or legal person with access to certain frozen funds, rights, or property in order to protect the rights of bona fide third parties in terms of what is established by the UNSCR 1452 (2002) of the CSNU. In the same terms, with regards to DNFBPs, the SHCP can act in accordance with Article 8, Sections I and IV, of the RES-Bloqueo/UIF/14.

Criterion 6.6 —

a) The CANDESTI Task Force on Terrorism Guidelines identify the authorities responsible for both proposing designations and for de-listing and define the procedures to be followed in accordance with the requirements of the UNSC committees established under these resolutions. These Guidelines establish the procedures, requirements, and minimum information that de-listing proposals must contain and the manner in which the proposals should be referred to the appropriate committee. These procedures for delisting are communicated via the process implemented by the FIU under which UNSC designations of individuals or entities is made public. These can also be found on the relevant website of the federal government.

b) The CANDESTI Task Force Guidelines define the mechanism and method by which individuals, groups or entities, and members of the Task Force may propose to the FIU that a person, entity, or organization be delisted, when, in their opinion, they no longer meet the criteria for designation under UNSCR 1373. As discussed above, this mechanism is publicly known and listed on the federal government website.

c) Decisions to designate under UNSCR 1373 can be reviewed by a relevant judicial or administrative authority. Where the competent authority determines that the individual or entity does not meet the criteria for designation, that authority can reverse the freezing action. Competent courts for these issues are the District Courts on Administrative Matters (Juzgados de Distrito en Materia Administrativa) (DCGIC 74, Section IV; RES-Bloqueo/FIU/14 Article 8, Section V). Additionally, the Court of the Federation (the appellate court for criminal and administrative matters) settles all disputes concerning laws or acts of authority that infringe constitutional rights (CPEUM Article 103, section I, and Article 107 of the Amparo Law. An "amparo" is the constitutional mechanism by which individuals in Mexico are able to defend themselves against resolutions, laws, or acts of an authority that affect their human rights and constitutional guarantees. The Mexican amparo constitutes an effective mean of judicial protection and is filed before the Courts of the Federation, conformed by District Courts, Circuit Courts, and the Supreme Court of Justice of the Nation. The Amparo Law, which is based on Articles 103 and 107 of the Mexican Constitution, foresees the procedures through which the individuals should request the amparo. For delisting purposes, the amparo should be filed before a District Court on Administrative Matters (Juzgados de Distrito en Materia Administrativa). In this sense, Mexican legislation encourages legal certainty for individuals by granting them a judicial procedure to review their case. Article 74, Section IV of the DCGIC establishes that a designated person can be removed from the BPL when such a decision is made by the relevant judicial or administrative authority. In other words, UNSCR 1373 designations can be reviewed by a relevant judicial or administrative authority. Also, Article 8, Section V, of the RES-Bloqueo/FIU/14 provides that DNFBPs may remove their preventive measures (e.g., freezing) when a competent court determines that an individual or entity listed by the FIU as a result of a designation in terms of the UNSCR 1373 does not meet or no longer meets the criteria to be listed.

d) The CANDESTI Task Force Guidelines establish the procedures, requirements and minimum information that de-listing proposals must contain, and the manner in which the proposals should be referred to the appropriate Committee. Moreover, the procedures to facilitate the review of a designation under the 1988 Committee, through the Focal Point, are public on the SHCP website: www.gob.mx/shcp/documentos/FIU-resoluciones-del-csnu-procedimiento-para-la-supresion-de-nombres-del-comite-1988.

e) The same public website that provides information to the public on the lists and procedures for delisting also provides information about the procedure for removal from the list of the UNSC Committee pursuant to Resolutions 1267/1988/2253 related to ISIL (Daesh), Al-Qaida and individuals, groups, entities and associates. This information includes the process through which individuals and entities may submit a delisting petition directly to the Office of the UN

Ombudsman and the UN Ombudsman website where persons may find detailed procedures, requirements and contact details for such a request.

f) Persons and entities who have been included on the list may appeal before the head of the FIU within ten working days from the day they became aware of the suspension. A hearing is convened for the interested party to state their case in writing and to present supporting evidence. The head of the FIU, upon request of the interested party, may extend on one occasion only the term granted herein, for an equivalent term. The FIU must then issue a resolution within ten working days of the hearing stating the reasons and causes for inclusion on the BPL, and whether or not removal is applicable. The interested party is notified in writing of the decision within fifteen working days following resolution.

g) The mechanism to communicate delisting and unfreezing decisions to DNFBPs and FIs is the same as that used to announce designations and subsequent obligations, including freezing obligations. This is implemented by the FIU (see criteria 6.4).

Criterion 6.7 — The SHCP (through the FIU), has the authority to grant a natural or legal person access to certain frozen funds, rights or property, as well as to acts, transactions and services, in accordance with UNSCR 1452 and successor resolutions. The foregoing is without prejudice to the fact that the designation may have been made by a third country, in accordance with Resolution 1373 (Article 75, DCGIC, and Article 8, Section IV, RES-Bloqueo/FIU/14). In terms of UNSC Resolution 1452 (2002) and Article 75 of the DCGIC, the SHCP may allow the unfreezing of funds in the following cases: (i) Humanitarian reasons and resources necessary for basic expenses (payment of foodstuffs, rent or mortgage, medicine, medical treatment, and public utility charges); (ii) other reasons (tax purposes, payments of insurance premiums, payments of reasonable professional fees, reimbursement of incurred expenses associated with the provision of legal services, fees or service charges for routine holding or maintenance of frozen funds or other financial assets or economic resources, other funds considered necessary for extraordinary expenses as a result of a determination by the Mexican Government and with the approval of the Committee)

Weighting and Conclusion

Mexico is compliant with Recommendation 6.

Recommendation 7—Targeted Financial Sanctions Related to Proliferation

Criterion 7.1 — FIs and DNFBPs are obligated to freeze, without delay, any assets or funds belonging to persons or entities designated pursuant to UNSCR 1718 and its successors and UNSCR 2231. The process for designations and communicating listings to reporting entities is no different than that implemented for TFS related to TF (R.6). The FIU's Internal Procedures Manual details each of the activities carried out by its various divisions FIU has involved in the procedure for matching the lists issued by the UNSC by which it systematically obtains the additions, de-listings, and modifications made to the Consolidated List of UNSC Sanctions. This facilitates the implementation of measures on each one of the names contained in the list as stipulated by the corresponding Sanctions Committee and accelerates reaction times of the FIU to these additions, de-listings, or modifications to the lists. In addition to the aforementioned, once the Permanent Mission of Mexico

before the UN receives an update to the lists of the relevant committees, it communicates simultaneously to the Ministry of Foreign Affairs and all the relevant agencies the pertinent amendment, addition, or de-listing of individuals contained in such lists. In the case of TFS, the applicable list is communicated to the reporting entities which must perform the blocking and immobilization immediately. Accordingly, the suspension of acts, transactions, or services, as well as the blocking and immobilization of resources, rights, or property of any nature is carried out within 24 hours of the moment that the FIU identifies the designations, amendments, or de-listings of individuals or entities, in accordance with the aforementioned mechanisms.

Criterion 7.2 —

a) The process is the same as that described in R.6 related to TFS for TF. Reporting entities are notified within 24 hours when an individual or entity is added to the BPL and they are obligated to immediately freeze all funds and assets.

b) The process is the same as that described in R.6 related to TFS for TF. The freezing obligation extends to all types of funds held by the designated party. This obligation extends to any third party acting on behalf of or at the direction of the designated party and to funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities.

c) The process is the same as that described in R.6. Designated persons and their associates are banned from using the financial system or DNFBPs. The FIU notifies the supervisors of new additions to the BPL, and supervisors communicate this to their respective reporting entities, including FIs and DNFBPs. The FIU also publicises the names of individuals or entities designated by the UNSC through the publication of the lists in the Federal Official Gazette (FIU Agreement).

d) The process is the same as that described in R.6 related to TFS for TF. When the FIU receives information pertaining to the addition, amendment, or de-listing of individuals or entities, it communicates this list to the reporting entities (via the supervisors) that must perform the blocking and immobilization immediately. Accordingly, the suspension of acts, transactions, or services as well as blocking and immobilization of resources, rights, or property of any nature is carried out within 24 hours of the moment when the FIU identifies the designations, amendments, or de-listings of individuals or entities, in accordance with the aforementioned mechanisms.

e) The process is the same as that described in R.6 related to TFS for TF. Reporting entities are obligated to report to the FIU within 24 hours any assets frozen or other actions taken to comply with their freezing obligations.

f) The process is the same as that described in R.6 related to TFS for TF. Persons and entities that have been included on the list may appeal before the head of the FIU within ten working days from the day they became aware of the suspension. A hearing is convened for the interested party to state their case in writing and to present supporting evidence. The head of the FIU, upon request of the interested party, may extend on one occasion only the term granted herein, for an equivalent term. The FIU must then issue a resolution within ten working days of the hearing, stating the reasons and causes for inclusion on the BPL and whether or not removal is applicable. The interested party is notified in writing of the decision within fifteen working days following resolution.

Criterion 7.3 — The AML/CFT supervisory authorities are responsible for monitoring compliance by the respective reporting entities with their freezing obligations under R.7 and for imposing administrative sanctions for violations (the CNBV, CNSF, and CONSAR for financial entities and the SAT for DNFBPs). The authorities consistently monitor the information provided by the reporting entities and periodically make inspection visits to verify the fulfilment of AML/CFT requirements. When an irregularity is detected (either through assessing the reporting or through on-site inspections), the corresponding sanction process is started.

Criterion 7.4 —

a) The procedure for de-listing (for designations pursuant to UNSCR 1730 (2006)) is published on a public website (following the same process as implemented for TFS for TF). This site also lays out the procedures for requesting de-listing, either directly through the focal point or through the Mexican government.

b) The process is the same as that described in R.6 related to TFS for TF. The mechanism to communicate delisting and unfreezing decisions to DNFBPs and FIs is the same as that used to announce designations and subsequent obligations, including freezing obligations. This is implemented by the FIU.

c) The FIU implements the procedures for authorizing access to funds or other assets in accordance with resolutions 1718 and 2231. First, FIs send the request for access to resources. Second, the FIU verifies the entity's identity as well its contractual relationship with the customer who is on the list of blocked persons. For this purpose, the FIs must submit supporting documents, including powers of attorney and corresponding contracts. Once the information is verified, the application is sent to the Analysis Area for review, including an analysis of the respective contracts to ensure that they are not related to items, materials, equipment, goods, technologies, assistance, training, financial assistance, investment, brokering, or prohibited services in accordance with that established by the UN Security Council and to perform an analysis of the origin of the funds under the scheme presented by the FI. Once the Analysis Area performs the actions described above, the application is sent back to the Regulatory Affairs Area along with their considerations. If appropriate, the Regulatory Affairs Area prepares the draft agreement to be submitted for consideration and signature to the head of the FIU.

d) The mechanism for communicating de-listings and un-freezing to FIs and DNFBPs is the same as implemented for communicating designations (see R.6).

Criterion 7.5 —

a) According to section I of the 72th DCGIC, when banks are required to block the accounts of their customers and occasional customers, they shall immediately prevent any act, transaction, or service with said customers or occasional customers listed on the BPL. In this sense, any interest or earning derived from contracts, agreements, or obligations linked to such blocked accounts is considered as an act, transaction, or service derived from the blocked account. Therefore, no interest or earning resulting from the blocked account can take place as banks and other reporting entities are prohibited under the 72th DCGIC and its correlatives to perform any act, transaction, or service derived from blocked assets.

b) The SHCP and the FIU are authorised to grant entities under their respective authority access to certain funds, rights, or property as well as to acts, transactions, and services to comply with international treaties signed by the Mexican Government, in terms of UNSCR 1737 (2002) and

also to fulfil their contractual obligations, provided the conditions listed in the criteria for 7.5b are met.

Weighting and Conclusion

Mexico is compliant with Recommendation 7.

Recommendation 8—Non-profit Organisations

In its Third Round MER, Mexico was rated partially compliant on SR VIII (now R.8). NPOs in Mexico are defined as "legal or social entities created for the purpose of producing goods or services but whose status does not allow them to be a source of income, profit or other financial gains for the units that establish, control or finance them." All NPOs (as legal persons) have to register through the SAT for taxation purposes. In addition, all NPOs that receive donations have to register as a "Vulnerable Activity" or a DNFBP, and they are therefore subject to the AML/CFT reporting requirements and supervision (Article 17 fraction XIII of LFPIORPI).

Criterion 8.1 —

a) A revised NPO TF risk assessment (based on the modifications to FATF R.8) was completed in February 2017, including the identification of the subset of organizations that fall within the FATF definition of an "NPO" and those that are more likely to be at risk for TF abuse. This assessment was based on SAR reporting on NPOs and did not include inputs from regulatory, intelligence, or law enforcement authorities.

b) The revised assessment should inform authorities' understanding of the nature of the threats to the specific NPOs that are higher risk. The FIU is creating an individual risk profile for each NPO. This process has not yet been completed.

c) Authorities have not yet conducted a review of the current laws and regulations pertaining to the subset of NPOs identified in the revised NRA as high risk.

d) In 2017, Mexico completed a revised TF risk assessment for the NPO sector, based on changes to FATF R.8. Mexico also completed its NRA in 2015, which included an assessment of the NPO sector. The NRA is subject to periodic review (every three years), including a review of this sector's vulnerability to terrorist activities. If it is determined that based on information derived from the regular monitoring process, a new NPO assessment is needed prior to the 3-year period, and it will be conducted immediately.

Criterion 8.2 —

a. There are several policies in place to promote transparency and public confidence in the management of the NPO sector. These include specific accounting and tax reporting obligations on legal and natural persons and registration in the Federal Registry of Taxpayers (Articles 27 and 28 of the Código Fiscal de la Federación—CFF). This registry contains information on individual NPO identity, domicile, tax situation, and accounting records, and it is updated and managed by SAT. Partners and shareholders of legal persons must also register with SAT, with the exception of non-profit organisations. Accounting records must be entered on SAT's website on a monthly basis. As mentioned above, NPOs receiving donations must also register as DNFBPs and they are therefore subject to AML/CFT supervision and reporting requirements.

b) As part of the work of the 2015 NRA, the FIU sent questionnaires (Annex 3) to the NPOs that are registered under the LFPIORPI in order to establish the legal arrangements of NPOs that receive donations, the perception of ML/TF risks within the NPO sector, and the existence of mitigating actions, their participation in international activities, their interaction with jurisdictions considered high risk for TF, and the difficulties they may be experiencing in meeting their AML/CFT obligations. The results of this outreach are reflected in the NRA. The FIU has issued guidelines and conducted workshops with the DNFBP sector, including on TF, though none were specific to the unique vulnerabilities or typologies for TF abuse in the NPO sector. There has been no outreach to the donor community.

c) The authorities are not yet working with NPOs to develop and refine practices to address TF risks and vulnerabilities. This will be done as part of the follow-up actions to the 2017 revised NPO NRA.

d) Authorities have not engaged in any outreach with the NPOs to encourage them to conduct transactions via regulated financial channels.

Criterion 8.3 — Authorities (the FIU and SAT) have not yet established a plan to improve effective supervision or monitoring of the NPO sector since the revised NRA. However, the FIU does have a monitoring process for the broad NPO sector, which analyses SAR reporting using its TF risk model.

Criterion 8.4 —

a) All NPOs have certain requirements based on their classification as DNFBPs but no special requirements currently exist for NPOs. Authorities are considering new requirements for higher risk NPOs based on the results of the 2017 assessment.

b) Since the risk-based requirements have not yet been defined, the correspondent sanctions have not been defined either.

Criterion 8.5—

a) The FIU and the SAT have an inter-institutional agreement that allows them to share relevant information on NPOs. The FIU has the power to request information from the SAT and provide this information to the Financial Analysis Specialised Unit of the PGR, if requested.

b) The civil intelligence agency, the PGR, and the FIU have investigative expertise on terrorism and TF to examine NPOs suspected of being exploited by terrorist organisations.

c) The government has full access to information on the administration and management of NPOs, including financial and programmatic information. As outlined in 8.2a, NPOs are obligated to register with SAT, submit tax and accounting information, and maintain updated accounting records. In addition (under LFFAROSC Article 7 Section V), NPOs that receive any federal support or incentives must also annually report to the Commission any activities they undertake as well as provide financial statements that indicate incomes and expenditures and how public incentives were used to fulfil their stated purpose. These NPOs are subject to the following obligations: a) they must provide information to competent authorities on their purpose, statutes, programmes, activities, beneficiaries, sources of domestic or foreign funding and properties, administrative and financial operations, and use of public funding and incentives they receive; b) they must report annually to the Commission on any activities they undertake in fulfilment of their stated purpose and provide accounting information on their finances, particularly related to public funding; and c) they must notify the Registry of any amendments to

their constitutive act and changes to their governance or management within forty-five days from the modification. There are also strict obligations governing legal persons "without lucrative ends," meaning entities that qualify to receive tax-deductible donations. There is a social comptroller that supervises the implementation of public resources, including of funds provided to NPOs (LFFAROSC Articles 7 and 18; RLFFAROSC Articles 8 and 14; LISR Article 82). NPOs are also subject to financial reporting obligations of donations received in cash, gold, or silver in any amount that exceeds MXN 100 000 (LISR Article 82). NPOs must maintain accounting records (available to the tax authorities) for a period of five years from the date on which the related tax returns are submitted (CFF Article 30). The SHCP (and the FIU) have the power to request the information and to provide it to the Financial Analysis Specialised Unit of the PGR. NPOs have a legal obligation to guard, protect, safeguard, and avoid the destruction or concealment of the information and documentation, as well as that which identifies their customers or occasional customers. The information is kept either physically or electronically for a term of five years after the date of the execution of the transactions, unless the relevant laws of the federal entities establish a different term (CFF Article 30; LFPIORPI Articles 6, 18, and 34; Regulations of the Federal Law for the Prevention and Identification of Transactions with Illicit Proceeds (RLFPIORPI) Articles 8 and 20; RCGLFPIORPI Article 33).

d) As noted in 8.5a, the FIU has the power to request information from the SAT and to provide this to the Financial Analysis Specialised Unit of the PGR, if requested during the process of an investigation. The FIU can also share information with the civil intelligence agency on suspicion of TF.

Criterion 8.6 — Mexico has been a member of the Egmont Group of FIUs since 1998 and shares information with its foreign counterparts on the prevention, investigation, and combating of ML/TF crimes via the secure web portal. Another useful tool for information and intelligence sharing in the bilateral and multilateral scenario is the exchange of data and intelligence performed through MOUs with different countries. The FIU has signed MOUs with 41 jurisdictions, in addition to a regional memorandum signed with the GAFILAT. Mexico also has legal authority (via the PGR) to respond to MLA requests in accordance with the principle of international reciprocity or through diplomatic channels.

Weighting and Conclusion

Mexico has not yet reviewed the adequacy and regulations that relate to NPOs and has not yet begun conducting targeted outreach to the NPO sector concerning TF issues based on the changes to R.8, though there are plans to do so. There is broad monitoring of the sector, but no targeted monitoring has been initiated, given the new risk assessment.

Mexico is partially compliant with Recommendation 8.

General Information on Preventive Measures of the Financial Sector

The table below presents the key legislation setting out preventive measures of FIs. Only the laws and regulations in bold were provided. The authorities indicated that regulations governing some sectors contain provisions identical to the ones in bold in the table below and provided two tables

showing mirroring provisions (see Annex I). The analysis was based on the legislation provided and the mirroring tables. The sectors are grouped accordingly for ease of reference.

Table 50. **Legal Framework for Preventive Measures of Financial Sectors**

Sector	Law /Article	Regulation	Reference in the Analysis if not specified by Sector
Banks	LIC/115	**DCGIC**	"Banks and other sectors"
Brokerage Firms	LMV/212	DCGMV	
Investment Advisors	LMV/226 Bis	DCGAI	
Investment Funds	LFI/91	DCGFI	
Credit Unions	LUC/129	DCGUC	
Cooperative Savings and Loans Companies (SOCAP)	LRASCAP/71 and 72	DCGSCAP	
Popular Credit and Saving Entities (SOFIPO and SOFINCO)	LACP/124	DCGACP	
Multiple Purpose Finance Companies (regulated entities (ER)/non-regulated entities (ENR)) (SOFOME)	LGOAAC/87-D and 95 Bis	DCGSOFOM	
General Deposit Warehouses	LGOAAC/95	DCGAGD	
Exchange Houses	LGOAAC/95	DCGCC	
Exchange Centres	LGOAAC/95 Bis	DCGOAAC	
Money Remitters	LGOAAC/95 Bis	DCGTD	
National Development Financial Entity for Agricultural, Rural, Forest and Fisheries	LOFNDARFP/60	DCGFN	
Insurance institutions (including insurance undertaking and intermediation)	LISF/492 and Third Transitory Provision	**DCGISMS**	"Insurance and bonding companies"
Bonding Institutions	LISF/492 and Third Transitory Provision	DCGIF	
Retirement Fund Administrators (RFA)	LSAR/108 Bis	**DCGSARSI**	RFAs
Travellers Cheques Companies	LFPIORPI/15	**RLFPIORPI RCGLFPIORPI**	Other financial service providers (OFSPs)

The regulations applicable to certain FIs were amended in February/March 2017 with transitory periods of one to three months (the exact timeframe varies from one provision to another); hence, they were not in force during the on-site and they were not taken into consideration in the analysis of this report.

Recommendation 9—Financial Institution Secrecy Laws

Mexico was rated compliant with R.4 in its last MER.

Criterion 9.1— For all sectors subject to financial secrecy obligations, i.e., all entities except National Development Financial Entity for Agricultural, Rural, Forest and Fisheries, implementation of AML/CFT requirements does not imply violation of financial secrecy obligations.

Weighting and Conclusion.

Mexico is compliant with R.9.

Recommendation 10—Customer Due Diligence

Mexico was rated PC with R.5 in its last MER. The main deficiencies include the following: No general requirement for obtaining information on the purpose and nature of business relationships; insufficient justification and guidelines for risk-based CDD, including with respect to simplified CDD; no explicit provision to refuse to open an account (and to terminate existing business relationships when CDD cannot be completed and to file an STR); absence of CDD requirements for unregulated multiple purpose finance companies; and weak implementation in certain sectors. Mexico has since taken corrective actions, notably by enacting several new and amended AML/CFT regulations.

Criterion 10.1— Banks and other sectors, insurance companies and bonding companies are generally prohibited from opening or maintaining anonymous accounts or accounts under fictitious names (DCGIC, Art. 10; DCGISMS, Art. 10). However, there is an exception for banks for accounts of natural persons whose transactions are limited to deposits in Mexican pesos up to a value of 750 investment units (UDI) (approximately equivalent to USD 218) within a calendar month, if the balance does not exceed the equivalent in national currency of 1 000 UDI (approximately equivalent to USD 290) (DCGIC, Art. 14 Bis. I). This exception was introduced to promote financial inclusion and does not seem to be a major deficiency, given the very low average balance and the small size of the funds held in these accounts (see criterion 1.8). Such requirements do not apply to RFAs. All OFSPs are prohibited from keeping records (as equivalent to accounts) under false or confidential names (RCGLFPIORPI, Art. 23).

Criterion 10.2—

a) b)— Banks and other sectors, insurance companies and bonding companies are required to perform CDD prior to entering into business relations with customers or executing transactions (DCGISMS, Art. 4; DCGSARSI, Art. 4). Insurance intermediaries are required to apply the customer identification policy of the insurance company for which they act as intermediaries (DCGISMS, Art. 3).

   Banks, brokerage firms, cooperative S&Ls, and popular S&Ls are required to identify occasional customers and verify their identity in the following instances: (i) when the transaction is in foreign currency in cash or in travellers cheque for an amount equal to or greater than USD 500 or its equivalent; or (ii) when they sign off or pay with a cashier's check in MXN or in a foreign currency for an amount equal or greater than USD10 000 or its equivalent (DCGIC, Art. 17). There are no CDD requirements in cases of occasional customers conducting transactions in MXN other than (ii).

Money remitters, exchange centres, and exchange houses only deal with occasional customers ("users"). Basic information of the user (name, nationality, date and place of birth, address, ID number) is required when the amount transacted is between USD 1 000 and USD 5 000 (or the equivalent in a foreign currency), while detailed information of the user is required when the amount is USD 5 000 (or the equivalent in a foreign currency) or more. These requirements do not apply to transactions carried out in Mexican pesos by money remitters and exchange houses, except those described under c.16.1. Subject to the thresholds noted in the Table 3 below, OFSPs are required to identify all customers and occasional customers and verify their identities (LFPIORPI, Art. 17 II, III, IV, X, XI, and 18 I).

Table 51.**Threshold for CDD Measures of OFSPs**

Type of Services	Threshold	
Travellers cheque companies	Monthly expense accumulated	Equivalent to or more than 645 times the federal minimum wage (approximately equivalent to USS 2 550)[88]
Value storage cards companies[89]	Accrued amount	Equivalent to or more than 645 times the federal minimum wage (approximately equivalent to USD 2 550)
Loans, money lending, and credit companies	Transaction	Equivalent to or more than 1 605 times the federal minimum wage (approximately equivalent to USD 6 350)
Credit and service card companies	Monthly expense accrued	Equivalent to or more than 1 285 times the federal minimum wage (approximately equivalent to USD 5,050)
Transportation and custody of cash and valuables companies	Transaction	Equivalent to or more than 3 210 times the federal minimum wage (approximately equivalent to USD 12 650)
Professional services companies undertaking financial services	-	0

c) Banks, exchange houses, brokerage firms, SOCAPs and SOFIPOs, and money remitters are the only institutions allowed to provide wire transfer services. CDD measures are required for occasional customers only when they conduct wire transfers in foreign currency. The aforementioned entities are obligated to collect basic information on occasional customers' identities as set out in criterion 16.1(a) for all transfers in foreign currency above USD 1 000 or the equivalent. Basic CDD is required when they send or receive wire transfers in foreign currency for amounts equal to or greater than USD 1 000, while full CDD is required when the amounts are greater than USD 5 000 (see criterion 16.1).

[88] As of October 2016, the federal minimum wage is MXN 73.04.
[89] These also include prepaid cards, vouchers, and coupons companies.

d) For all sectors, there's no explicit requirement for entities to conduct CDD when there is a suspicion of ML/TF. This is a shortcoming for the sectors described under 10.2(a) (for Level 1 accounts), (b), and (c) above. They are not required to conduct CDD when there is a suspicion of ML/TF and the amount being transacted is below the threshold.

e) All entities with the exception of OFSPs are required to obtain and verify updated information when they have doubts about the veracity or accuracy of the CDD information previously obtained (DCGIC, Art. 21; DCGISMS, Art. 19; DCGSARSI, Art. 9).

Criterion 10.3 — All entities are required to identify their customers and verify their identities using various official or other reliable documents, depending on the type of customers (DCGIC Art. 4; DCGISMS Art. 4; DCGSARSI Art. 4; RCGLFPIORPI Art. 23).

Criterion 10.4 — All entities are required to identify the legal representatives of customers and to verify their identity and the authorization documents (DCGIC, Art. 4.II; DCGISMS, Art. 4 and Annex 6; DCGSARSI, Art. 4; RCGLFPIORPI Art. 12, Annexes 3–6 Bis, item b).v)).

Criterion 10.5 — Banks and other sectors, and insurance and bonding companies: The term "beneficial owner" means "persons" who "ultimately exercise the rights of use and benefits, usage or disposal of funds" and who exercise controls over legal persons. Read in conjunction with other provisions of the regulation, the term "person" can mean a legal person or a natural person. Furthermore, "control" can be exercised by a natural person, a legal person, or a trust that makes decisions in the board meeting, has essentially more than 50 percent voting rights, owns 25 percent or more of the shares, or controls the legal person acting as a manager (DCGIC, Art. 2.V, XVIII; DCGISMS, Art. 2). Therefore, the definition falls short of the standard that defines beneficial owners as natural persons. For customers and occasional customers that are natural persons, entities must collect a signed statement from the customer indicating whether s/he is acting on behalf of a third party. If the customer declares s/he acts on behalf of another person, or when an entity "has information based on evidence or proven facts" that the customer acts on behalf of another person but has not declared so, entities are required to identify and verify the identity of the beneficial owner(s) (DCGIC Art. 4.I(iv), III.a), VI, 31; DCGISMS, Art. 4, 24) (see detailed analysis with regard to beneficial owners of legal persons and legal arrangements under c.10.10 and c.10.11 below). There are no general requirements to identify beneficial owners and take reasonable measures to verify their identity that apply to all customers beyond the scenarios described above. For RFAs, only when there are indications or certainty that a customer is acting on behalf of another person, RFAs are required to identify beneficial owners to the extent possible (DARSARSI, Art. 15). All OFSPs are required to identify the beneficial owner defined in a similar way to that of banks by inquiring the customer and verifying the beneficial owner's identity against official documents in cases where the customer is in the possession of those documents (LFPIORPI, Art.18.III; RCGLFPIORPI, Art. 3.IV and VII and Art.12.VII). If the customer does not have the required documents, OFSPs are required to collect additional information such as bank or commercial and personal references (RCGLFPIORPI Art.12.VII).

Criterion 10.6 — Banks and other sectors are required to obtain information on the amount, number, type, and frequency of transactions as well as the origin and destination of funds to the extent that it allows them to reliably define the transactional profile of a customer (DCGIC, Art. 23.II and 24). Similar requirements apply to insurance and bonding companies (DCGISMS, Art. 15.II and 16). For RFAs, there is no explicit requirement to obtain information on the purpose and nature of the business relationship as such purpose is defined by the nature of this sector. In the case where

OFSPs are establishing business relationships, there are no requirements to understand the purpose and intended nature of the relationship.

Criterion 10.7 — Banks and other sectors with the exception of MSBs (as they only deal with occasional customers) are required to monitor customers' transactional behaviour (DCGIC, Arts. 23.I and 25) and when significant changes of transactional behaviour are detected, they are required to review and update the customers' identification information. Only for customers classified as high risk are they required to verify, at least once a year, the identification profiles and keep them up to date, which falls short of the standard as it does not apply to all customers. In addition, entities are required to review and adjust, as needed, customers' risk profiles at least twice during a calendar year (DCGIC, Art. 21). Similar requirements apply to insurance and bonding companies (DCGISMS, Art. 15.II, III, IV, 18 and 19). RFAs are required to keep the CDD information up to date and to develop systems to detect changes in customers' behaviour (DCGSARSI, Art. 9). OFSPs are required to conduct ongoing due diligence by (i) establishing a mechanism to accumulate and follow up on transactions conducted by their clients (RCGLFPIORPI, Art.19); (ii) reviewing files of customers with whom they have a business relationship at least once a year (RCGLFPIORPI, Art. 21); and (iii) monitoring transactions conducted by customers rated as low risk to the extent that it would allow the FI to be alerted when such customers diverge from the low-risk characteristics. For customers not rated as low risk, the requirement to establish "a mechanism to follow up on transactions" is too vague to satisfy the requirement to scrutinise transactions in order to ensure that they are in line with the customers' profiles.

Criterion 10.8 — For legal persons, banks and other sectors are required to obtain information on their business lines (Mexican and foreign, DCGIC, Art. 4.II and III). However, the requirement to understand the corporate structure only applies to legal persons classified as high risk (DCGIC, Art. 32). For trusts, they are required to obtain information on the purpose of the trust and, where appropriate, its activities that are vulnerable to ML/TF (DCGIC, Art. 4.IX). For legal persons, insurance and bonding companies are required to obtain information on the customers' business lines and corporate structure (DCGISMS, Art. 4, Annexes 4 and 5). Such requirements do not exist for trusts. RFAs are not subject to such requirements. All OFSPs are required to understand the nature of a customer's business (RCGLFPIORPI, Art.12, Annexes 4 and 6 item a).iv) and Annex 7 item a).ii)), with the exception of an instance when the customer is a legal arrangement. There are no requirements to understand the ownership and control structure of a customer that is a legal person. For trusts, OFSPs are nevertheless required to acquire documents that "contain the constitution of the trust."

Criterion 10.9 — Banks and other sectors are required to obtain information on the following: (i) Legal persons: Name, proof of existence, address, and names of senior managers and legal representatives (DCGIC, Art. 4.II and III). However, there are no requirements to obtain information on the powers that regulate and bind the legal person; and (ii) Trusts: Identification of settlors, trustees, deputy trustees and members of the technical committee, agreement, and a certified copy of the public document attesting the execution or incorporation of the trust (DCGIC, Art. 4.IX).

Insurance and bonding companies are required to obtain information on the following: (i) Legal persons: Name, address, tax ID, proof of existence, and names of senior managers and legal representatives (DCGISMS, Art. 4, Annexes 4 and 5). There are no requirements to obtain information regarding the powers that regulate and bind the legal person; and (ii) Legal arrangements: Under the Mexican legal framework, only regulated FIs can act as trustees (see

criterion 25.1). When trustees appear to exercise their rights, the entities must identify and verify the settlors, trustees, and principles or participants whose identity was undetermined previously (DCGISMS, Art. 25). There are no requirements for obtaining other information of trusts. When dealing with Mexican legal persons, RFAs are required to obtain the following information: name; articles of incorporation; address; and name of administrator or administrators, director, and general manager or legal representative (DCGSARSI, Art. 4.II). For foreign legal persons, only proof of legal existence and a document attesting to the legal representation is required.

All OFSPs are required to obtain the following information for customers who fall into the following categories: (i) Legal persons: Name, legal form, proof of existence, powers that govern the legal person, and the address of the registered office or a principal place of business (RCGLFPIORPI, Art.12, Annex 4 items a).i), a).v), and b).i), Annex 6 items a).i), a).iv), and b).i)-ii)); there is no requirement to obtain the information on the persons with a senior management position; and (ii) Legal arrangements: Name and, when applicable, address of the trustee, reference or identifying number of the trust, documents that contain the constitutions of the trust, and the powers and the name of the legal representative (RCGLFPIORPI, Art.12, Annex 8).

Criterion 10.10 — While banks and other sectors are required to identify senior managers of legal persons in all cases (DCGIC, Art. 4) (c.10.10 (c)), they are required to understand the corporate structure and identify the controlling partners or shareholders, including those of the group to which the legal person belongs, only for legal persons categorised as high risk (DCGIC, Art. 32.I, II). Moreover, for legal persons that are limited corporations or civil associations classified as high risk, entities are required to identify the person(s) who control(s) such legal persons. Except for limited corporations and civil associations classified as high risk, there are no explicit requirements to identify the natural persons who have an ultimate controlling ownership interest (c.10.10 (a)) and, if there is doubt as to whether such persons are beneficial owners or if such persons do not exist, to identify those persons exercising control over the legal person through other means (c.10.10 (b)). Similar requirements exist for insurance and bonding companies (DCGISMS, Art. 4 and 25, Annexes 4 and 5). RFAs are required to identify the controlling shareholders of legal persons (DCGSARSI, Arts. 2 and 6). OFSPs are not subject to specific requirements to identify beneficial owners of legal persons in addition to those discussed under criterion 10.5.

Criterion 10.11 — Before establishing a business relationship with trusts, banks and other sectors are required to identify settlors, trustees, and their deputies, members of the technical committee or equivalent governing body as applicable, and legal representatives, as well as to verify their identities (DCGIC, Art. 4.IX). When, by nature of the trusts or similar legal arrangements, such information is not determined at the time of entering into a business relationship, entities must obtain the information when the aforementioned persons appear before the entity to exercise their rights (DCGIC, Art. 32.III). There are no requirements to identify and verify beneficiaries. When dealing with trusts as occasional customers, banks, SOFOMEs, SOCAPs, and SOFIPOs are required to obtain information about the name of the trustee, the tax identification number, and the name of the legal representatives (DCGIC, Art. 4 Bis).

Insurance and bonding companies are required to identify settlors, trustees, and principals when they exercise their rights (DCGISMS, Art. 25.III). There are no specific requirements to identify the beneficiaries or class of beneficiaries unless they are identical to the beneficiaries of the account or policy. There are no such requirements for RFAs. With respect to OSFPs, for customers that are legal arrangements, the general principle concerning the identification of beneficial owner applies (see

criterion 10.5); however, there are no specific requirements to identify the settlor, the protector, the beneficiaries, or the class of beneficiaries.

Criterion 10.12 — Insurance and bonding companies are required to identify the beneficiaries when appointed and to verify their names, addresses, and dates of birth. They must complete the beneficiaries' profiles by verifying the information at the time when they exercise their rights, at latest (DCGISMS, Art. 4 and 7).

Criterion 10.13 — When determining the level of risks of a customer, insurance companies or bonding companies are required to consider "the origin and destination" of the customer's resources (DCGISMS, Art. 17), which may relate to but does not specifically extend to the beneficiary of a policy.

Criterion 10.14 — Insurance and bonding companies are required to verify a customer's identity prior to establishing a business relationship (DCGISMS, Art. 4). They are permitted to verify a customer's identify before executing the contract for products with an annual premium of less than USD 2 500, products without a savings and an investment component with an annual premium between USD 2 500 and USD 7 500, or a pension insurance derived from social security law (DCGISMS, Art. 6). The entities are required to have mechanisms in place to determine low-risk scenarios and to monitor activities outside the expected behaviour (DCGISMS, Art. 8). Other FIs are not permitted to complete verification after the establishment of the business relationship or the carrying out of transactions.

Criterion 10.15 — Insurance and bonding companies are required to have mechanisms to monitor the activities and to perform verification when they detect that a customer surpasses the thresholds indicated under c.10.14 (DCGISMS, Arts. 6 and 8).

Criterion 10.16 — For all sectors, apart from the requirements regarding updating CDD files described under criterion 10.7, there are no explicit requirements to apply CDD measures to existing customers.

Criterion 10.17 — Banks and other sectors are required to undertake CDD based on the risk level of customers. For customers who are classified as high risk, they must seek approval from a manager before establishing the business relationship (DCGIC, Art. 27), review their files at least once a year, and visit the customer, if warranted, to keep the CDD information up to date (DCGIC, Art. 21), obtain more information on the origin and destination of funds and the intended nature of transactions, as well as on their dependents and associated corporates (DCGIC, Arts. 25 and 28). Similar requirements apply to insurance and bonding companies (DCGISMS, Arts. 17 and 20). RFAs are generally required to apply CDD based on the level of risks (DCGSARSI, Art. 11). There are no requirements for OFSPs to perform enhanced CDD in higher risk situations.

Criterion 10.18 — Simplified measures are permitted as follows: (i) For banks, SOFOMEs, investment funds, credit unions, SOCAPs, and SOFIPOs: When the ML/TF risks are considered low by the entity based on analysis using the criteria defined in its policies, including maximum amount of a transaction (DCGIC, Art. 14); (ii) For banks and other sectors: When dealing with certain types of FIs (DCGIC, Art. 4.IV) that the entity classifies as low risk according to (i); and (iii) For banks, brokerage firms, SOCAPs, and SOFIPOs: In defined scenarios based on type of products, amount, and customers (DCGIC, Art. 14 Bis and 14 Ter) (see criterion 1.8).

Insurance and bonding companies are permitted to apply simplified measures subject to requirements similar to (i) and (ii) above (DCGISMS, Arts. 4 and 8; DCGIC, Art. 14 Ter), while RFAs are subject to provisions similar to (i) (DCGSARSI, Art. 4).

OFSPs are permitted to apply simplified CDD if a customer is considered to be of low risk (LFPIORPI, Art.19, RCGLFPIORPI, Art.17). There are no requirements to conduct risk assessments of customers. OFSPs may establish criteria and elements following FIU's guidance for the classification of their clients or occasional customers as low risk (RCGLFPIORPI, Art. 34).

Only for scenarios that fall under category (iii), the CNBV has conducted ex-post analysis and concluded that Level 1 and Level 2 accounts are low risk but there is no analysis on Level 3 accounts.

For all FIs, there is no prohibition of simplified measures when there is a suspicion of ML/TF.

Criterion 10.19 — Banks and other sectors are prohibited from opening an account or entering into a contract if they are not able to perform CDD properly (DCGIC, Art. 10); however, this does not apply to occasional customers with the exception of money remitters, exchange houses, and exchange centres. Insurance and bonding companies are prohibited from executing contracts if they are unable to comply with CDD requirements. RFAs are prohibited from undertaking any transactions if they are not able to perform CDD satisfactorily (DCGSARSI, Art. 5). When a customer refuses to provide CDD information or attempts to bribe, persuade, or intimidate the entity's staff, all the above entities are required to consider filing an STR (DCGIC, Art. 38.vi; DCGISMS, Art. 29.vi; DCGSARSI, Art. 19.VI). OFSPs are required to refrain from conducting any act or transaction if a customer refuses to provide them with the CDD information (LFPIORPI, Art. 21). There are no requirements to consider making an STR in relation to that customer.

Criterion 10.20 — There are no provisions that would permit FIs not to pursue CDD process in case they reasonably believe this will tip off the customer.

Weighting and Conclusion

There are a number of deficiencies in the Mexican framework on CDD, the most significant ones are in relation to identifying beneficial owners including those of legal persons and trusts, identification of occasional customers who transact in Mexican pesos, keeping CDD information up-to-date, requirements on existing customers, and prohibition of simplified measures when there is suspicion of ML/TF.

Mexico is partially compliant with R.10.

Recommendation 11—Record-keeping

Mexico was rated Compliant with R.10 in its last MER.

Criterion 11.1 — Banks and other sectors are required by their respective sectorial laws to keep the records of transactions that are filed with the FIU as related to ML and terrorism for a minimum period of ten years.[90] These requirements are further spelled out in respective AML regulations that require maintenance of records of the following transactions, subject to reporting, for a minimum of ten years: (i) transactions in cash and travellers cheques in local or foreign currency with an amount equal to or greater than the equivalent of USD 10 000 ("relevant transactions"); (ii) transactions in cash in USD when the amount for a customer is USD 500 or more, or for an occasional customer when the amount is USD 250 or more; (iii) transactions with cashier's checks for an amount equal to or greater than the equivalent in national currency to USD 10 000; (iv) suspicious transactions; (v)

[90] The legal references are identical to the ones in the table entitled "Legal Framework for Preventive Measures."

transactions, activities, or behaviour of the entity's officials or employees that may "contravene, violate, or evade" the application of AML/CFT measures ("concerning internal transactions"), and (vi) cross-border wire transfers. There are no requirements to maintain records on transactions other than those mentioned above.

RFAs are required by law to keep information on the reported identification of customers and transactions for at least ten years (LSAR, Art. 108 Bis). These requirements were expanded in regulations to cover records of all transactions (DCGSARSI, Art. 36).

Insurance and bonding companies and insurance intermediaries are required to keep records of reports of unusual transactions "concerning internal transactions" and "relevant transactions" (both defined in a similar way to those for banks), for which they are required to maintain the files for at least ten years from the date when the policy or contract concluded and the date when the transactions were carried out (DCGISMS, Art. 49).

OFSPs are required by law to preserve the "information and documentation that is used to support their activities" for at least five years from the date when the transaction was conducted (LFPIORPI, Art. 18.IV). In addition, OFSPs are required to keep the reported transactions for at least five years from the date when the report was filed (RLFPIORPI, Art. 20).

Moreover, all FIs, with the exception of OFSPs, are required by the law governing the respective sectors to comply with the CC, including its requirement that all "merchants" (including FIs) are to "maintain the original supporting documents of their transactions duly recorded" for at least ten years (Art. 38).

Criterion 11.2 — Banks and other sectors are required by law to keep information on the identification of customers for a minimum period of ten years (LIC, Art. 115) from the date when the business relationship ended (for customers) or the date when the transaction was carried out (for occasional customers) (DCGIC, Art. 59). In addition, entities must keep records of the analysis they conducted on the unusual transactions in order to decide whether to file an STR for a minimum period of ten years from the date when the decision was made (DCGIC, Art. 38). Similar requirements apply to insurance and bonding companies (LISF, Art. 492; DCGISMS, Art. 49). RFAs are required to keep CDD files during the relationship and for at least ten years after its termination (DCGSARSI, Art. 36). OFSPs are required to keep CDD information for a period of five years after the date of the transaction (LFPIORPI, Art. 18.IV). For RFAs and OFSPs, there are no requirements to keep results of any analysis undertaken. By virtue of being subject to the CC, all FIs with the exception of OFSPs are required to keep the original correspondence that "contain agreements, contracts or commitments that create rights and obligations" for a period of ten years at a minimum (Art. 49).

Criterion 11.3 — Banks and other sectors are required to maintain "accounting or financial records of all supporting documentation" in relation to the reports listed under c.11.1, and such transactions should be recorded in a manner that specifies the way and terms in which such transactions were carried out (DCGIC, Art. 59). Insurance and bonding companies and intermediaries are required to keep the records of unusual transactions, relevant transactions, and concerning internal transactions in a way that allows the manner and period under which they are carried out to be known (DCGISMS, Art. 49). For OFSPs, there is no explicit requirement for transaction records to be sufficient to permit reconstruction of an individual transaction. For all FIs, the requirements in the Code of Commerce described under criterion 11.1 would not be sufficient to satisfy the requirement of criterion 11.3 to enable reconstruction of transactions other than those covered in the AML regulations.

Criterion 11.4 — Banks and other sectors are required to make all the information and documents available to the SHCP through the CNBV (DCGIC, Art. 54). Insurance and bonding companies are required to make all the information and documents available to the SHCP through the CNSF (DCGISMS, Art. 44). All accounting records kept by FIs (by virtue of being subject to Tax Code) have to be available to the tax authorities at the fiscal domicile of the taxpayer in electronic form (CFF, Art. 30).

Weighting and Conclusion

The main deficiency is the lack of requirements to ensure reconstruction of transactions other than those covered in the AML regulations.

Mexico is largely compliant with R.11.

Recommendation 12—Politically Exposed Persons

Mexico was rated LC with R.6 in its last MER. The main deficiency identified was the lack of explicit requirement for senior management's approval to continue a business relationship with existing PEP customers.

There are no requirements in relation to PEPs applicable to OFSPs. For other FIs, PEPs are defined generally in line with the standard as natural persons who perform or have performed prominent public functions in a foreign country or in Mexico and their family members (DCGIC, Art. 2.XVII; DCGISMS, Art. 2.XX; DCGSARSI, Art. 2.XIV).

Criterion 12.1 — Banks and other sectors and insurance and bonding companies are required to have mechanisms in place to determine whether a customer is a PEP, regardless whether foreign or domestic (DCGIC, Art. 25; DCGISMS, Art. 17). For banks and other sectors, all foreign PEPs must be treated as high risk (DCGIC, Art. 26) while for insurance and bonding companies, foreign PEPs are treated as high risk only when they deal in insurance products with an investment component in foreign currency, which falls short of the standard (DCGISMS, Art. 21). In scenarios considered to be high risk, these entities are required to do the following: (i) obtain the senior manager's approval to start or continue the business relationship with the customer (DCGIC, Art. 26; DCGISMS, Art. 21); (ii), obtain more information on the origin and destination of funds and the nature of business (DCGIC, Art. 25; DCGISMS, Art. 21); and (iii) take reasonable measures to identify the PEP's spouse, economic dependents, and patrimonial links, including with legal persons (DCGIC, Art. 28; DCGISMS, Art. 21). RFAs are required to have mechanisms to determine whether a customer is a PEP. Foreign PEPs must be treated as high-risk customers (DCGSARSI, Art. 11). Approval at executive level is required for high-risk transactions, including those with foreign PEPs (DCGSARSI, Art. 12). For all FIs, the general requirements for enhanced ongoing monitoring discussed under criterion 10.17 apply to foreign PEPs when they are treated as high risk; however, there are no requirements to determine whether the beneficial owner of a customer is a PEP.

Criterion 12.2 — The authorities issued a list[91] of positions the occupants of which should be considered PEPs. These include senior executive, legislative, and judicial officials at federal and state levels but exclude senior military officers, executives of state-owned corporations, and officials at the

[91] See *Lista de los cargos públicos que serán considerados para definir a las personas políticamente expuestas nacionales*

municipal level. For banks and other sectors, persons who have performed a prominent public function domestically would be regarded as PEPs unless they have left office two years or more ago (DCGIC, Art. 2.XVII). These entities are required to have mechanisms in place to determine the level of risk of the transactions carried out by domestic PEPs. The requirements for foreign PEPs under criterion 12.1 apply to domestic PEPs categorised as high risk (DCGIC, Art. 28). For insurance and bonding companies, persons who have performed a predominant public function domestically would be regarded as PEPs unless they left office two years or more ago (DCGISMS, Art. 2.XX). All requirements on foreign PEPs apply to domestic PEPs that are classified as high risk (DCGISMS, Art. 21). RFAs are required to have mechanisms in place to determine whether a customer is a domestic PEP and to apply measures discussed under c.12.1 to domestic PEPs classified as high risk (DCGSARSI, Art. 11). For all sectors, there are no requirements to determine whether the beneficial owner of a customer is a domestic PEP or to identify PEPs of international organizations.

Criterion 12.3 — For banks and other sectors, and insurance and bonding companies, PEPs are defined to cover spouses and other family members of persons with prominent public functions as well as legal persons who have patrimonial links with the PEP (DCGIC, Art. 2.XVII; DCGISMS, Art. 1.XX). Consequently, all the measures described above apply to PEPs' family members but not to their associates. For RFAs, PEPs are defined to cover family members and associates of PEPs as defined by the FATF.

Criterion 12.4 — There are no requirements for insurance or bonding companies in relation to beneficiaries of life insurance policies or their beneficial owners being PEPs.

Weighting and Conclusion

The most significant deficiencies are the lack of requirements to determine whether the beneficial owner is a PEP, for the insurance sector to determine whether the beneficiary of a life insurance is a PEP and to apply required due diligence, and the fact that senior military officers, executives of state-owned corporations, or officials at the municipal level are not considered to be domestic PEPs.

Mexico is partially compliant with R.12.

Recommendation 13—Correspondent Banking

Mexico was rated LC with R.7 in its last MER. The deficiency identified is the existence of inadequate CDD requirements for correspondent relationships for the mutual fund and securities firms, including the need to establish their AML/CFT responsibilities and that of their respondents.

Criterion 13.1 — For banks, general deposit warehouses, investment funds, cooperative S&Ls, and popular S&Ls, when establishing a correspondent relationship with a foreign respondent, they are required to obtain senior management approval, obtain information on the respondent's business lines, evaluate its AML/CFT controls to determine whether the respondent institution complies with the international standard on AML/CFT, understand the supervision the respondent is subject to, and determine whether it has a good reputation (DCGIC, Art. 29). There are no requirements for understanding the respective responsibilities of the two parties.

Criterion 13.2 — For all FIs, there are no requirements governing customers of respondents who have direct access to the correspondent institution's accounts.

Criterion 13.3 — Banks, general deposit warehouses, investment funds, SOCAPs, and SOFIPOs are prohibited from providing correspondent services to shell banks (DCGIC, Art. 30). They are also required to evaluate the respondent institution's AML/CFT controls to determine whether it complies with the international standard on AML/CFT, which implicitly includes whether the respondent institution prohibits its account from being used by a shell bank.

Weighting and Conclusion

The only deficiency is the absence of a requirement governing customers of respondents who have direct access to the correspondent institution's accounts.

Mexico is largely compliant with R.13.

Recommendation 14—Money or Value Transfer Services

Mexico was rated PC with Special Recommendation VI in its last MER. The deficiencies identified include a large unregulated MVTS sector, weak supervision of MVTS, and a lack of requirements for MVTS to comply with requirements regarding wire transfers.

Criterion 14.1 — The following types of entities are permitted to provide MVTSs with a license or registration: banks (LIC, Arts. 1, 2, 8, 8 Bis, 9, 10, 30, and 46), brokerage firms (LMV, Arts. 9, 113, 114, 115, and 171), SOCAPs (LFASCAP, Art. 8 and14), exchange houses (LGOAAC, Art. 4, 7, 8 Bis, 81, 82, 83, and 86), and money remitters (LGOAAC, Art. 4, 7, 81 A Bis, and 86 Bis).

Criterion 14.2 — The CNBV is authorised to identify and carry out inspections of MVTS providers without registration and order suspension of operations (LGOAAC, Art. 64). It has established mechanisms and procedures to identify and investigate unregistered MVTSs and to file cases for prosecution. Conviction can lead to a range of sanctions, including imprisonment of up to 15 years and a fine up to 100 000 times the federal minimum wage (approximately equivalent to USD 390 000 as of January 2017) (LGOAAC, Art. 101; Penal Code, Art. 150.I), which appears to be proportionate and dissuasive.

Criterion 14.3 — Money remitters, exchange houses, and currency exchange centres are supervised for compliance with their AML/CFT obligations by the CNBV (LGOAAC, Art. 95 Bis). Other FIs permitted to provide MVTS, including banks, brokerage firms, SOCAPs, SOFIPOs, and SOFINCOs, are also supervised for implementation of their AML/CFT obligations by the CNBV.

Criterion 14.4 — There are no explicit requirements for MVTS agents to be licensed or registered, while money remitters are required to submit to the SHCP a list of agents on an annual basis. Such requirements do not apply to exchange houses.

Criterion 14.5 — Money remitters are required to ensure the associated agents' compliance with CDD and reporting requirements using a risk-based approach and ensure the associated agents' directors and employees are fit and proper to undertake their responsibilities, as well as to provide training to the staff (DCGTD, Arts. 49 and 50).

Weighting and Conclusion

The only relatively minor deficiency is the lack of explicit requirements for MVTS agents to be licensed or registered or for MVTSs to make a current list of its agents accessible by competent authorities.

Mexico is largely compliant with R.14.

Recommendation 15—New Technologies

Mexico was rated PC with R.8 in its last MER. The deficiencies identified are a lack of specific requirements to implement measures to prevent misuse of technological developments and a lack of specific risk mitigating CDD requirements for transactions that do not require face-to-face contact.

Criterion 15.1 — Mexico assessed risks related to the misuse of Bitcoin as part of its NRA and considered them to be low, but the authorities are considering measures to address a potential increase of such risks. There are no mechanisms to ensure that FIs conduct such a risk assessment.

Criterion 15.2 — Banks, exchange houses, SOFOMEs, money remitters, investment funds, credit unions, SOFIPOs, and SOFINCOs are required to have mechanisms to manage the risks arising from technology-based delivery channels, such as electronic and optic ones (DCGIC, Art. 15). There are no such requirements for insurance and bonding companies or for RFAs. OFSPs that perform their activities with the use of electronic, optical, or any other technology have to develop procedures to prevent misuse of such means or technology (RCGLFPIORPI, Art. 18). These procedures should be part of the document that sets out CDD and internal control rules (RCGLFPIORPI, Art. 37). For all sectors, there are no express requirements to assess ML/TF risks prior to launching new products or technologies.

Weighting and Conclusion

The main shortcoming is the lack of a requirements for FIs to assess ML/TF risks prior to the launch or use of new products, business practices, or delivery mechanisms, or to manage and mitigate such risks.

Mexico is partially compliant with R.15.

Recommendation 16—Wire Transfers

Mexico was rated PC with Special Recommendation VII in its last MER. The deficiencies identified include an overly high threshold; a lack of regulation of batch transfers, information that must be kept by intermediary institutions, and risk-based procedures for identifying and handling transfers with incomplete originator information; and money remitters not being subject to the requirements.

Entities authorised to provide wire transfer services include banks, brokerage firms, SOCAPs, SOFIPOs, SOFINCOs, exchange houses, and money remitters.

Criterion 16.1 — For all wire transfers, entities acting as ordering institutions are required to identify and verify the name and address of the originator who is an existing customer and to assign a reference number to the transaction. Such information must be incorporated into the payment

message (DCGIC, Art. 16.I). For occasional customers, basic information on the user (name, nationality, date and place of birth, address, and ID number) is required when the amount transacted is between USD 1 000 and USD 5 000 (or the equivalent in a foreign currency), while more detailed information on the user is required when the amount is USD 5 000 (or the equivalent in a foreign currency) or more. There is no requirement to identity occasional customers who transfer Mexican pesos. There are no requirements for ordering institutions to obtain information on the beneficiary.

Criterion 16.2 — The requirement described under criterion 16.1 applies to batch transfers.

Criterion 16.3 — There are no requirements governing transfers below USD 1 000 (or the equivalent in a foreign currency) carried out by an occasional customer except for money remitters, which are required to collect minimum information (name, address, and reference number) for all transfers (DCGTD, Art. 4). There are no requirements for ordering institutions to obtain information on the beneficiary.

Criterion 16.4 — There is no requirement to verify the information obtained as described under c.16.3 when there is a suspicion of ML/TF.

Criterion 16.5 — Only domestic transfers carried out (i) by a customer; (ii) by an occasional customer in foreign currency above USD 1 000; or (iii) through money remitters are subject to the requirements discussed under criterion 16.1. Domestic transfers conducted by occasional customers in Mexican pesos, in a foreign currency below USD 1 000, or through entities other than money remitters are not covered.

Criterion 16.6 — There is no requirement to collect and make information available to the beneficiary institution or competent authorities apart from that described under c.16.5.

Criterion 16.7 — Ordering institutions are required to maintain originator information on all wire transfers (DCGIC, Art. 16.I). There are no requirements for obtaining information on the beneficiary or for retaining such information.

Criterion 16.8 — Banks, brokerage firms, SOCAPs, and SOFIPOs are required to refrain from opening an account when they are not able to fulfil the identification requirements (DCGIC, Art.10). They are, however, not required to refrain from executing an occasional transaction when they are unable to satisfy the requirements of criteria 16.1–16.7. Money remitters are prohibited from carrying out transactions if they are unable to meet the requirement discussed under c.16.1.

Criterion 16.9 — Money remitters that act as ordering institutions are required to collect information on "account number or reference number of the credit institution, money remitters, foreign money remitters, or entity from where the funds of the corresponding transfer comes, as the case may be." There is no other requirement for intermediary institutions to ensure that all originator and beneficiary information be maintained in the payment message.

Criterion 16.10 — Entities are required to keep records of cross-border wire transfers for at least ten years (DCGIC, Art. 59).

Criterion 16.11 — Entities are generally required to detect wire transfers that lack the information required under c.16.1 (DCGIC, Art. 38.xi).

Criterion 16.12 — There is no requirement for intermediary institutions to have policies and procedures for determining when to execute, reject, or suspend a wire transfer lacking required information or any follow-up question.

Criterion 16.13 — The requirement described under c.16.11 applies to all entities, including those acting as a beneficiary institution.

Criterion 16.14 — Entities, when acting as a beneficiary institution, are required to identify and verify the beneficiary, if not already identified, for wire transfers above USD 1 000 or its equivalent in a foreign currency (DCGIC, Art. 16.II) and maintain records of cross-border wire transfers (DCGIC, Art. 59). Such requirements do not apply to transfers in Mexican pesos.

Criterion 16.15 — There are no requirements for beneficiary entities to have policies and procedures for determining when to execute, reject, or suspend a wire transfer lacking required information or any follow-up question.

Criterion 16.16 — There are no explicit requirements for entities to comply with the aforementioned requirement in their operation of transfers in foreign countries or through agents.

Criterion 16.17 — There are no requirements for money remitters or exchange houses that control both the ordering and the beneficiary side of a wire transfer to consider information from both sides to decide whether to file an STR and whether to file an STR in both sides if they are located in different countries.

Criterion 16.18 — Entities are required to immediately prevent the customers in the list of blocked persons from making any act or transaction (DCGIC, Art. 72).

Weighting and Conclusion

The main deficiencies include the lack of requirements for ordering institutions to include beneficiary information in the transfer; and the lack of requirements for intermediary and beneficiary institutions to have procedures to determine when to execute, reject, or suspend a wire transfer lacking the required originator or beneficiary information.

Mexico is partially compliant with R.16.

Recommendation 17—Reliance on Third Parties

Mexico was rated PC with R.9 in its last MER.

The deficiencies identified include a lack of a requirement for FIs to immediately obtain CDD information from third parties, inadequate supervision/monitoring of insurance intermediaries, and inadequate supervision/monitoring of paying agents (on whom reliance is placed) by remittance firms for compliance with AML/CFT obligations.

Criterion 17.1 — Banks and other sectors, except exchange houses, exchange centres, and money remitters, are allowed to conduct CDD through a third party, as long as the relying entity verifies the information obtained, for (i) granting loans or credits; or (ii) customers whose transactions are limited to deposits up to 10 000 UDI (approximately equivalent to USD 3 900 as of September 2016) within a calendar month (DCGIC, Art. 7). In the case of savings accounts for payrolls, banks, SOCAPs, and SOFIPOs may rely on the employer who opens the accounts on behalf of its employees to prepare and maintain the identification information of individual employees. In this context, banks are required to ensure that the CDD information of individual employees can be made available to them (DCGIC, Art. 13). In any case, the ultimate responsibility for CDD measures remains with the

relying entities (DCGIC, Art. 7, 13). Insurance and bonding companies are allowed to rely on third parties who are FIs, to conduct CDD. The relied upon FIs in Mexico are regulated and supervised for AML/CFT but there are no requirements for non-financial entities or foreign FIs being relied upon to be subject to AML/CFT regulation and supervision. The relying entities are required to ensure that the CDD information will be made available to them in a timely manner. In any case, the ultimate responsibility for CDD measures remains with the relying entities (DCGISMS, Art. 11–13). They are not required to obtain basic CDD information immediately. OFSPs are permitted to rely on certain third parties to perform CDD. The permitted third parties include the following: (i) members of the same business group; and (ii) customers of the OFSP with whom a business relationship has been established and the OFSP performs transactions in the name of the employees or contractors of that customer (RCGLFPIORPI, Art. 16). With respect to (i), there is no explicit requirement to immediately obtain the necessary information concerning CDD measures. With respect to (ii), the OFSP must enter into a written agreement with its customer that stipulates that the customer should keep identification files for each of those employees or contractors and make them accessible to the OFSP. This falls short of the standard since none of the requirements in 17.1(a)––(c) are fulfilled. For all sectors, there is no requirement for the relying FI to ensure the third party has measures for and is regulated and supervised for compliance with R.10 and R.11

Criterion 17.2 — For all FIs: There are no conditions on the countries in which a third party may be based.

Criterion 17.3 — There are no requirements for financial groups to apply a group-wide AML/CFT programme (see criterion 18.2 below). Therefore, the analysis of criteria 17.1 and 17.2 applies to scenarios of intra-group reliance. For banks and other sectors and insurance and bonding companies, entities that are part of the same financial group are permitted to rely on one another to perform CDD under certain conditions. The entity being relied upon has the obligation to make the customer profiles available for inquiries by the relying entity within the group and by the authorities (DCGIC, Art. 9; DCGISMS, Art. 9). Similar provisions apply to OFSPs (RCGLFPIORPI, Art. 14).

Weighting and Conclusion

The main deficiencies are the lack of comprehensive requirements on relying FIs to ensure the third party has measures for and is regulated and supervised for compliance with R.10 and R.11, and the lack of requirements on the countries in which a third party may be based.

Mexico is partially compliant with R.17.

Recommendation 18—Internal Controls and Foreign Branches and Subsidiaries

Mexico was rated LC with R.15 in its last MER.

The deficiency identified is a lack of an explicit requirement in all the AML/CFT regulations to have an independent audit function.

Criterion 18.1 — Banks and other sectors are required to (i) have AML/CFT policies and procedures (DCGIC, Art. 64); (ii) appoint an executive as compliance officer (DCGIC, Art. 47); have procedures for hiring staff with good reputations (DCGIC, Art. 57); (iii) have ongoing training programs (DCGIC, Art. 49); and (iv) with the exception of investment advisors, have an internal auditing department or an annual independent external audit to review compliance with the

AML/CFT requirements (DCGIC, Art. 60). Similar requirements apply to insurance and bonding companies (DCGISMS, Arts. 38, 47, 39, and 50) and RFAs (DCGSARSI, Art. 23–25, 27, and 34).

OFSPs are required to develop guidelines for CDD as well as criteria, measures, and internal procedures to comply with the AML/CFT obligations (RCGLFPIORPI, Art. 37). They are also required to appoint a representative responsible for ensuring compliance with these obligations, although there are no requirements that this representative be at management level (LFPIORPI, Art. 20). There are no requirements to have screening procedures for hiring employees or ongoing employee training programs, nor are the OFSPs required to establish an independent audit function to test the AML/CFT system.

Criterion 18.2 — For all FIs, there are no requirements for financial groups to implement group-wide AML/CFT programmes. Nonetheless, members of a group are allowed to exchange identification information on a customer only with the express authorization of the customer (DCGIC, Art. 9; DCGISMS, Art. 9; DCGSARSI, Art. 8; RCGLFPIORPI, Art. 35). For banks, the information shared may only be used by the entity that made the request, except when the entity that shares the information specifies that the information may be shared with other entities (DCGIC, Art. 62). To share information with foreign FIs, banks are required to enter into agreement with the foreign FI on confidentiality of the information shared (DCGIC, Art. 62 Bis and Article 62 Ter). There are no requirements for other sectors on the confidentiality or safeguarding of the information shared.

Criterion 18.3 — Banks and other sectors, with the exception of SOCAPs and SOFIPOs, are required to implement the Mexican requirements in all of their branches and subsidiaries, including those located in jurisdictions with weaker AML/CFT measures. When they are not able to do so, they must report the situation to their Mexican supervisor but there are no additional requirements to apply mitigating measures to manage the risks in such circumstances. When the foreign requirements that entities' branches or subsidiaries are subject to are stricter, entities must comply with them (DCGIC, Art. 58). Similar requirements apply to insurance and bonding companies (DCGISMS, Art. 48) and RFAs (DCGSARSI, Art. 35). OFSPs are not subject to such requirements.

Weighting and Conclusion

The main deficiency is the absence of a requirement for financial groups to implement a group-wide AML/CFT programme, which carries a relatively high weight.

Mexico is partially compliant with R.18.

Recommendation 19—Higher-risk Countries

Mexico was rated LC with R.21 in its last MER. The deficiency identified is that Mexico can impose countermeasures only with respect to countries previously identified by an international organisation, and not with respect to countries that are of specific concern to Mexican authorities.

There are no requirements for OFSPs concerning higher-risk countries.

Criterion 19.1 — For all FIs, although the FIU distributed lists of countries identified with strategic deficiencies by the FATF, there are no explicit requirements to subject customers from these jurisdictions to enhanced measures. However, banks and other sectors are required to detect and assess the background and purpose of transactions involving jurisdictions with weak AML/CFT

measures with a view to determining whether such transactions should be filed as suspicious transactions (DCGIC, Art. 38.x). In addition, banks, general deposit warehouses, investment funds, SOCAPs, and SOFIPOs must "strictly apply" CDD measures to respondent banks located in such jurisdictions (DCGIC, Art. 30), and they are generally required to apply CDD proportionate to the level of risks (DCGIC, Art. 29). Similar requirements apply to insurance and bonding companies (DCGISMS, Art. 29.x) and RFAs (DCGSARSI, Art. 19.x).

Criterion 19.2 — There are no legal provisions explicitly empowering the authorities to apply countermeasures proportionate to the risks. FIU issued a notice in August 2015, requiring reporting entities to report certain transactions involving certain jurisdictions, though the entities are not required to take any special measures at their end. None of the jurisdictions are on FATF's blacklist. This has been the only example of Mexico implementing some sort of countermeasures—on its own initiative rather than based on a call from FATF. The Mexican authorities' ability to apply countermeasures proportionate to the risks beyond systematic reporting proportionate to the risks cannot be established.

Criterion 19.3 — The SHCP is responsible for maintaining an online list of countries considered by the FATF to have strategic deficiencies in their AML/CFT measures (DCGIC, Arts. 30 and 38.x; DCGISMS, Art. 29.x; DCGSARSI, Art. 19.x). In addition, the FIU distributes updates of the lists to reporting entities by e-mail.

Weighting and Conclusion

The only deficiency is that the Mexican authorities' ability to apply countermeasures beyond systematic reporting proportionate to the risks cannot be established.

Mexico is largely compliant with R.19.

Recommendation 20—Reporting of Suspicious Transaction

Mexico was rated PC with both R.13 and Special Recommendation IV in its last MER. The deficiencies identified include defensive reporting, lack of an explicit requirement to report attempted transactions, and lack of a clear obligation to report suspicions of financing of international acts of terrorism.

Criterion 20.1 — Banks and other sectors are required by law to report "acts, transactions and services" related to ML or terrorism (domestic and foreign) as defined in Mexican law and, except for the National Development Financial Entity for Agricultural, Rural and Forest and Fisheries, any "acts, transactions or services that the members of the administrative board, managerial executives, commissioners, employees and legal representatives perform" related to ML or terrorism or those that could contravene or violate the AML/CFT obligations ("concerning internal transactions") (LIC, Art. 115[92]). In addition, a decree issued by Congress in March 2014 extended "measures or procedures to prevent and detect" ML and terrorism to the financing of terrorism.

[92] References to provisions in laws governing other sectors are identical to the ones in the table entitled "Legal Framework for Preventive Measures" presented under "General Information."

The reporting obligations are further elaborated in the following regulations:

(i) An "unusual transaction" is defined as follows: "a transaction, activity, conduct or behaviour that does not match their background or initial or usual transactional profile of the customer without the existence of a reasonable justification, or those that a client or occasional customer makes or intends to perform that may involve ML or terrorism" (DCGIC, Arts. 2.XIV, 37, and 42). Entities should consider 14 indicators or characteristics of the transaction in order to identify "unusual transactions," one of them being "suspicions arise that […] acts […] or transactions that might favour, assist or cooperate in any way whatsoever to commit" ML or terrorism. Entities have up to 60 calendar days to file the "unusual transaction" report starting from when an alert is generated by the system, process, or an employee, whichever occurs first. Except for "concerning internal transactions," the timeframe can be extended for another 30 days for banks if the bank has specified in its policy when such an extension would apply (DCGIC, Art. 37).

(ii) A "24-hour report" refers to instances when an entity has "information based on evidence or concrete facts"—this goes beyond suspicion—that the funds of a transaction may "come from illicit proceeds or may be destined to favour, aid, help or cooperate in any way whatsoever to commit" ML or acts of terrorism, and the entity must file an STR within 24 hours starting from the time it becomes aware of such information (DCGIC, Art. 41).

On the one hand, the timeframe for the 24-hour reports meets the requirement to report "promptly," but it sets a bar higher than "suspicion." Although the authorities argued against the assessors' interpretation, FIs' implementation of this requirement supports it: they only file STRs on matches with sanctions lists—this is what the FIU expects them to do.[93] On the other hand, it cannot be established that the timeframe allowing for up to 60 or 90 days after an alert is flagged to file an unusual report without specifying how much time entities have after the forming of a suspicion to file a report satisfies the requirement to report promptly. "Unusual transactions reports" constitute the overwhelming majority of the STRs filed to the FIU (see chapter 5).

Similar requirements apply to insurance and bonding companies, except that the extension is not allowed (DCGISMS, Arts. 28 and 31). In addition, insurance agents are obligated to deliver to the relevant insurance company or bonding company the information necessary for the UTR/STR to be created. Insurance and bonding companies must agree with the agents to the terms for this purpose (DCGISMS, Art. 28). Similar requirements apply to RFAs, except that they have up to 30 (instead of 60) calendar days to report (DCGSARSI, Arts. 13, 19, and 21) and they are not required to file "concerning internal transactions."

OFSPs must report all transactions where the monthly amount is greater than 3,210 times the minimum wage of the federal district (approximately equivalent to USD 12 519 as of January 2017) (LFPIORPI, Art. 17) In those transactions subject to this reporting requirement, where there is information based on "fact or evidence" that the resources could have come from or be intended to facilitate or to provide aid, assistance, or cooperation of any type to the commission of ML or related crimes, OFSPs must file a report to FIU within 24 hours after becoming aware of such information; however, this requirement does not apply to TF- or terrorism-related transactions. Customers

[93] The FIU's guidance on 24-hour reporting issued in February 2013 states, "Suspicious Transactions Reports classified as '24-hour reports' are those that include individuals or entities that appear in official lists of persons associated with any activity relating to offences under Articles 139, 148 Bis, or 400 Bis of the Criminal Code or with organised crime, press releases, or other information from international organisations or national or foreign competent authorities for the prevention, investigation, and prosecution of offences […]."

classified as low risk and customers who are acting on behalf of their employees or other personnel contracted by the customer are not subject to this requirement. (RCGLFPIORPI, Art. 27). Thus, the obligation to report falls short of the standard as follows: (i) the reporting obligation is based on "a fact or evidence" which goes beyond suspicion; (ii) the requirement does not cover TF; and (iii) the requirement is not set out in law.

Reports should be submitted to SHCP through CNBV, CNSF, and CONSAR, respectively, while for OFSPs, the reports should be submitted to SHCP through SAT. The FIU has direct access to the UTRs and STRs filed by accessing the supervisors' systems.

Criterion 20.2 — For banks and other sectors, and insurance and bonding companies, the reporting requirements cover transactions that a customer or occasional customer intends to make. For RFAs and OFSPs, the reporting requirements do not cover attempted transactions explicitly, but "act or transaction" seems broad enough to cover attempted transactions (DCGIC, Art. 2.xiv, xv; DCGISMS, Art. 2.xvi, xvii; DCGSARSI, Art. 2.xi). For OFSPs, transactions below the threshold specified under criterion 10.2 or below the threshold specified in criterion 20.1, and activities of certain customers (see criterion 20.1 above) are not subject to reporting requirements, which also falls short of the standard. In addition, there is no explicit provision in the law that would extend OFSPs' reporting obligation to attempted transactions.

Weighting and Conclusion

For most FIs, the timeframe for "unusual transactions" does not satisfy the requirement to report promptly while the 24-hour reporting obligation sets a bar higher than suspicion, which is a significant deficiency in the Mexican framework. Moreover, for OFSPs, the reporting obligations are not set out in the law, do not cover TF or attempted transactions, and only apply above a threshold.

Mexico is partially compliant with R.20.

Recommendation 21—Tipping-off and Confidentiality

Mexico was rated Compliant with R.14 in its last MER.

Criterion 21.1 — All FIs with the exception of RFAs are protected by law from any liability that may arise from violation of confidentiality for complying with AML/CFT requirements. It is clarified in respective regulations that such protection covers FIs' directors, officers, and employees (DCGIC, Art.53; DCGISMS, Art. 43; DCGSARSI, Art. 31), except for OFSPs for which such extension is set out in the law (LFPIORPI, Art. 38).

Criterion 21.2 — Staff, directors, and representatives of all FIs with the exception of RFAs are prohibited by law from disclosing the STRs and other reports filed to any party other than those explicitly authorised.[94] In addition, their employees and directors are prohibited from disclosing to the customer any reference made to them in an STR in respective regulations.

[94] The legal references are identical to the ones in the table of "legal framework for preventive measures."

Weighting and Conclusion

A relatively minor deficiency is that for most FIs, the protection of FIs' directors, officers, and employees from any liability that may arise from violation of confidentiality for complying with AML/CFT requirements are not set out in law.

Mexico is largely compliant with R.21.

Recommendation 22—DNFBPs: Customer Due Diligence

In its 2008 report, Mexico was rated non-compliant with former R.12 as it did not subject DNFBPs to the AML/CFT regime.

General Information

DNFBPs are defined in the Mexican legislation as "Vulnerable Activities." Any person (physical or legal) who is engaging in those activities is subject to AML/CFT legislation.

This includes the following:

1) Casinos, i.e., those who engage in "activities linked to the practice of gambling" for transactions the amount of which is equal to or greater than 325 times the minimum wage[95] (approximately USD 1 380). Transactions are considered to be "the sale of tickets, tokens or of anything similar for the practice of said games…as well as the payment of the value that said tickets, tokens or similar represent or, in general, the delivery or payment of prizes and the realisation of any financial transaction, either individually or in a series of transactions that are apparently linked to each other" (LFPIORPI, Art. 17.I);

2) Real estate agents, i.e., those who engage in "regular or professional provision of…real estate or of intermediation services in the transfer of the ownership or setting up of rights over said property, that involve trading in the property itself on behalf or in favour of customers" (LFPIORPI, Art. 17.V);

3) Dealers in precious metals and stones, i.e., those who engage in "regular or professional marketing or intermediation of precious metals and stones, that involve trading in said property" for transactions the value of which is equal to or greater than 805 times the minimum wage (approximately USD 3 420) (LFPIORPI, Art. 17.VI);

4) "Freelance" professionals, i.e., those who engage in "provision of…services, without there being an employment relationship with the respective customer, in those cases where any of the following transactions are prepared for a customer or are carried out for and on behalf of the customer" (LFPIORPI, Art. 17.XI): a) Buying and selling real estate or the assignment of rights thereof; b)The administration and management of funds, securities, or any other asset of their customers; c)The handling of bank accounts, savings, or securities; d) The organisation of contributions of capital or any other type of funds for the incorporation, operation, and administration of commercial corporations; or e) The incorporation, demerger, merger, operation, and administration of legal persons or corporate vehicles, including trusts, and buying or selling commercial entities.

[95] Minimum wage is USD 4.25 (as of January 2016).

5) Companies that professionally provide services of business, administrative, registered office, or correspondence address for a monthly value that equals to or is greater than 1,605 times the minimum wage (approximately USD 6 820) (LFPIORPI, Art. 17.XV). The monetary threshold limits the scope of the obligations and is not consistent with the Standard.

The way in which the above provision is formulated implies that it covers every person who is professionally engaging in those transactions and is not limited to lawyers, notaries, or other independent legal professionals and accountants. However, in addition, public notaries and public brokers (corredores públicos) are explicitly included in the scope of the law (LFPIORPI, Art. 17.XII).

Professional nominee services are not allowed in Mexico since 1) all shares have to be represented by nominative certificates that serve to demonstrate and convey the owner quality and shareholder rights (LGSM, Art. 111); and 2) the positions of administrator, counsellor, and manager are personal and cannot be performed by a representative (LGSM, Art. 147).

Criterion 22.1—

C.10.1. All DNFBPs are prohibited from keeping records (as equivalent to accounts) under false or confidential names (RCGLFPIORPI, Art. 23).

C.10.2–10.3. All DNFBPs are required to identify all customers, including occasional customers, subject to the thresholds noted above, or with whom business relationship is established, and verify their identities on the basis of official credentials or documentation (LFPIORPI, Arts. 18.I) (c.10.2(a)–(b) and 10.3).

There are no requirements for any of the DNFBPs to perform CDD in cases where there is a suspicion of ML/TF or when there are doubts about the veracity or adequacy of previously obtained data (c.10.2(d)–(e)), with one specific exception—when there are doubts about whether the customer acts on behalf of another person (RCGLFPIORPI, Art. 22).

C.10.4. All DNFBPs have to verify that any person purporting to act on behalf of the customer is authorised to do so and to identify and verify the identity of that person (RCGLFPIORPI, Art. 12, Annexes 3–6Bis, item b).v)).

C.10.5. All DNFBPs are required to identify the beneficial owner of the customer and to verify the identity on the basis of official documents in case the customer is in possession of those documents (LFPIORPI, Art. 18.III; RCGLFPIORPI, Art. 12.VII). If the customer does not have the required documents, DNFBPs are required to collect additional information, such as bank, commercial, or personal references. The definition of the beneficial owner provided for in the law is consistent with the FATF definition (RCGLFPIORPI, Art. 3.IV and VII).

C.10.6. In cases where DNFBPs are establishing business relationships, there is no requirement to understand the purpose and intended nature of the relationship.

C.10.7. DNFBPs are required to conduct ongoing due diligence by (a) establishing a mechanism to accumulate and follow up on transactions conducted by their clients (RCGLFPIORPI, Art. 19); and (b) verifying that the identification files are up to date (RCGLFPIORPI, Art. 21). The requirement to establish "a mechanism to follow up on transactions" is too vague and falls short of the requirement to scrutinise transactions in order to ensure that they are in line with the customer's profile.

C.10.8. All DNFBPs are required to understand the nature of a customer's business (RCGLFPIORPI, Art. 12, Annexes 4 and 6 item a).iv) and Annex 7 item a).ii)), with the exception of an instance when

the customer is a legal arrangement. There is no requirement to understand the ownership and control structure of a customer that is a legal person or a legal arrangement.

C.10.9. All DNFBPs are required to obtain the following information for customers who fall into the following two categories:

- Legal persons: name, legal form, proof of existence, powers that regulate and bind the legal person, the address of the registered office or a principal place of business, and the names and addresses of the legal representatives (RCGLFPIORPI, Art. 12, Annex 4 items a).i), a).v) and b).i), b).iv), Annex 6 items a).i), a).iv) and b).i)–iii)). However, the concept of a "legal representative" might not include all relevant persons in senior management positions.
- Legal arrangements: name of the trustee, reference or identifying number of the trust, documents that contain the constitutions of the trust, and the powers and the name of the legal representative (RCGLFPIORPI, Art. 12, Annex 8). However, this does not include information on the address of the trustee.

There is no requirement to obtain the information on the persons in senior management positions.

C.10.10. All DNFBPs are required to identify the beneficial owner and verify the identity on the basis of official documents, identical to those that are required to identify the customer, in case the customer is in possession of those documents (LFPIORPI, Art. 18.III; RCGLFPIORPI, Art. 12.VII). If the customer does not have the required documents, DNFBPs are required to collect additional information, such as bank, commercial, or personal references. The definition of the beneficial owner includes persons who either have the controlling ownership interest or are able to exert control by other means.

C.10.11. For customers that are legal arrangements, the general principle concerning the identification of beneficial owner applies (see above in criterion 10.5); however, there are no specific requirements to identify the settlor, the protector, the beneficiaries, or class of beneficiaries.

C.10.12–13. Not applicable.

C.10.14. All DNFBPs are required to verify the identity of the customer and the beneficial owner prior to or during the execution of a transaction or, if applicable, prior to or during the establishment of a business relationship (RCGLFPIORPI, Art. 12). There are no exceptions to this rule.

C.10.15. Not applicable.

C.10.16. DNFBPs are effectively required to apply CDD measures to existing customers, since they have to verify, at least once a year, that the identification files on the clients or users with whom they have a business relationship include all the CDD data and are up to date (RLFPIORPI, Art. 21).

C.10.17. There are no requirements for DNFBPs to perform enhanced CDD in higher risk situations.

C.10.18. DNFBPs are permitted to apply simplified CDD if a customer is considered to be of low risk (LFPIORPI, Art. 19; RCGLFPIORPI, Art .17). There are no requirements to conduct risk assessments of customers; however, DNFBPs may establish criteria and elements for the classification of their clients or occasional customers as low risk (RCGLFPIORPI, Art. 34). Guidance for such criteria is provided by the FIU at a dedicated website.

C.10.19. DNFBPs are required to refrain from any act or transaction if a customer refuses to provide them with the CDD information (LFPIORPI, Art. 21). There is no requirement to consider making an STR in relation to that customer.

C.10.20. There are no provisions that would permit DNFBPs not to pursue CDD process in case they reasonably believe this will tip off the customer.

Criterion 22.2—

C.11.1. By virtue of being subject to Tax Code, all DNFBPs have to maintain accounting records which include "books…records, working papers, statements, special accounts, books and corporate registries…disks and tapes or any other actionable means of storage of data…as well as all of the documentation and information related to the compliance with tax regulations" (CFF, Art. 28.I). The documentation and accounting referred to above must be kept for a period of five years, counted from the date on which the related tax returns are presented or must have been presented (CFF, Art. 30). Although it is specified that all accounting records should comply with the requirements established by the Tax Revenue Service, it is not clear whether that would include transactions, both domestic and international.

C.11.2. DNFBPs are required to keep CDD information either physically or electronically for a period of five years after the date of the transaction (LFPIORPI, Art. 18.IV). There are no requirements to keep business correspondence or results of any analysis undertaken.

C.11.3. There is no explicit requirement for transaction records to be sufficient to permit reconstruction of individual transactions, except for casinos. Casinos are required to establish a central gambling system which registers transactions that take place as a result of the games or gambling and a safe box that records all cash payments received by the participants of the games and gambling (LIEPS, Art. 20). Real estate agents and dealers of precious metals and stones (by virtue of engaging in trade activities) have to keep the original receipts from their sales for at least ten years (CC, Art. 38). In addition, "freelance" professionals have to keep fiscal receipts that indicate the income they received (LISR, Art. 110.III–IV). It is not clear, however, whether these sales and fiscal receipts allow for reconstruction of individual transactions (i.e., linking specific payments with specific customers).

C.11.4. All accounting records kept by DNFBPs (by virtue of being subject to Tax Code) have to be available to the tax authorities at the fiscal domicile of the taxpayer in electronic form (CFF, Art. 30).

Criterion 22.3 — There are no requirements for DNFBPs in relation to PEPs. However, the FIU has issued guidance which suggests that when determining the level of risk, DNFBPs should consider whether a client is a PEP.

Criterion 22.4 —

C.15.1. There are no requirements for DNFBPs to identify and assess the ML/TF risks posed by new products or technologies. Mexico assessed risks related to the misuse of Bitcoin as part of its NRA and considered them to be low. However, that does not cover the full range of new products and technologies.

C.15.2. DNFBPs that perform their activities with the use of electronic, optical, or any other technology, have to develop procedures to prevent the misuse of such means or technologies (RCGLFPIORPI, Art. 18). These procedures should part of the document that sets out CDD and internal control rules (RCGLFPIORPI, Art. 37).

Criterion 22.5 —

C.17.1–C.17.2. DNFBPs are not permitted to rely on third parties to perform CDD, except in two specific circumstances. The first exception relates to a situation where the counterpart is a member of the same business group (RCGLFPIORPI, Art. 14). In such a case, the two parties have to enter into an agreement which stipulates the following: 1) they can transfer the CDD information and documents; and 2) the party that performs the CDD is obligated to keep it available for other relevant parties for their consultation. The legal person that performs CDD must comply with the criteria, measures, and internal procedures of the Business Group (RCGLFPIORPI, Art. 14). However, there is no explicit requirement to immediately obtain the necessary information concerning CDD measures.

The second exception relates to a situation where the third party is a customer of the DNFBP with whom a business relationship has been established and the DNFBP performs transactions in the name of the employees or contractors of that customer (RCGLFPIORPI, Art. 16). In this case, the DNFBP should enter into a written agreement with its customer that stipulates that the customer should keep identification files for each employee or contractor and make them accessible to the DNFBP. This falls short of the standard since none of the requirements spelled out in criteria 17.1(a)–(c) are fulfilled.

There are no requirements to consider country risk when determining whether a third party can be relied upon.

C.17.3. Not applicable.

Weighting and Conclusion

All of the criteria of R.22 are partly met, with the exception of c.22.3, which is not met. The most important deficiencies include a lack of requirements to perform CDD in cases where there is a suspicion of ML/TF or where there are doubts about the veracity or adequacy of data, incomplete record-keeping obligations, and an absence of CDD measures with regard to PEPs. The ability to rely on non-regulated or non-supervised third parties to perform CDD is also an important deficiency.

Mexico is partially compliant with R.22.

Recommendation 23—DNFBPs: Other Measures

In its 2008 report, Mexico was rated non-compliant with former R.16 as it did not subject DNFBPs to the AML/CFT regime.

Criterion 23.1 — DNFBPs have to report transactions (i) that are subject to reporting; and (ii) where there is additional information based on a "fact or evidence" that the resources could have come from or be intended to facilitate or to provide aid, assistance, or cooperation of any type to the commission of ML or related crimes (RCGLFPIORPI, Art. 27). RCGLFPIORPI does not have the status of a law. According to the LFPIORPI, Art. 17, transactions that are subject to reporting are transactions where the monetary value exceeds a certain threshold (depending on the type of DNFBP). Thus, the obligation for reporting falls short of the standard, since (i) there is a monetary threshold (although it is not a deficiency with regard to dealers in precious metal and stones); (ii) there is no obligation to report transactions that are related to TF; (iii) the reporting obligation is

based on "a fact or evidence" which goes beyond suspicion; and (iv) the reporting obligation is not set out in law. There is no explicit provision in the law that would extend the reporting obligation to attempted transactions.

Criterion 23.2 —

C.18.1. DNFBPs are required to develop guidelines for CDD as well as criteria, measures, and internal procedures to comply with the AML/CFT obligations (RCGLFPIORPI, Art. 37). DNFBPs are also required to appoint a representative who would be responsible for ensuring compliance with these obligations (LFPIORPI, Art. 20). There are no requirements to have screening procedures for hiring employees, to have ongoing employee training programmes, or to establish an independent audit function system.

C.18.2. There is no requirement to implement group-wide programmes against ML/TF for those DNFBPs that are part of a business group. However, the members of the same group are allowed to exchange information for the purpose of ML prevention (RCGLFPIORPI, Art. 35).

C.18.3. There are no requirements for foreign branches of DNFBPs to ensure compliance with AML/CFT requirements of the home country.

Criterion 23.3 — There are no requirements for DNFBPs concerning high-risk countries. However, the FIU has issued guidance which suggests that DNFBPs should take into account high-risk countries when determining the level of risk of a given client or transaction.

Criterion 23.4 —

C.21.1. DNFBPs are protected from any liability when they submit STRs and other information under the AML/CFT provisions (LFPIORPI, Art. 22). The identity of the employee who submitted the report is protected by law (LFPIORPI, Art. 38).

C.21.2. DNFBPs and their employees are prohibited from disclosing the fact that an STR was filed (RCGLFPIORPI, Art. 31).

Weighting and Conclusion

Two criteria of R.23 are not met; one is partly met; and one is met. The most important deficiencies are a monetary threshold to report suspicions, a lack of an obligation to report transactions that are related to TF, and an absence of requirements with regard to high-risk countries. Since the essential elements of this Recommendation (suspicious transaction reporting and enhanced measures for high-risk countries) are missing,

Mexico is not compliant with R.23.

Recommendation 24—Transparency and Beneficial Ownership of Legal Persons

In its 2008 report, Mexico was rated non-compliant with former R.33 as it did not take adequate measures to prevent the misuse of legal persons in ML/TF, especially with regard to its company registry. In addition to that, the FATF standard has changed substantially.

Criterion 24.1 — The different types, forms, and basic features of legal persons are defined in the Mexican law. With respect to the main private legal persons, they are divided into two broad categories: civil entities, which may be incorporated as associations (asociación) or partnerships

(sociedad), and commercial entities, which may be incorporated as partnerships. The main difference between a civil and a commercial entity is their preponderant object. For the civil entities, the main object is not an economic one, while for the commercial entities, the object should primarily be economic (Código Civil Federal—CCF, Arts. 2670 and 2688).

The Federal Civil Code lists the following types of legal persons (CCF, Art. 25):

(1) Public corporations[96] (governed by Federal Constitution, Organic Law of the Federal Public Administration, Federal Law on Parastatal Entities, and Law of Public Private Partnerships);

(2) Corporations and companies (governed by General Corporation Law, LGSM) that can take one of the following forms: General partnerships; Limited partnerships; Limited liability companies; Business corporations; Limited partnerships issuing shares; Cooperatives; and Joint stock companies

(3) Unions, professional associations, and others similar organisations (governed by CCF, Law of Credit Unions, Federal Labour Law, and Law of Business Chambers and their Confederations);

(4) Cooperative companies and mutual societies (governed by General Law of Cooperative Companies, LGSC);

(5) Associations with political, scientific, artistic, recreational, or any other lawful purpose (governed by CCF and Religious Associations and Public Worship Law, LARCP);

(6) Foreign legal persons of private nature (Foreign Investment Law, LIE).

The processes for the creation of the legal persons, and for obtaining and recording of basic ownership information can be found on the official websites of the Mexican government.[97]

Criterion 24.2 — A section of the NRA is dedicated to the types of legal persons that can be established in Mexico with a description of the general registration obligations. The conclusion of the assessment is that all types of legal persons have the same level of ML/TF risk. This conclusion is made on the assumption that all types of legal persons have to register in the central registry through a trusted third party (such as a public notary, a broker, or a judge) which has the obligation to verify the information submitted, although other sections of the NRA do mention the misuse of legal persons in the context of shell companies and straw men. Therefore, the NRA does not give a coherent view of the problem. Also, it does not represent the risk perception by all competent authorities, as LEAs and the FIU may have a better appreciation of these risks than other authorities.

Criterion 24.3 — All legal persons have to be registered in the RFC (CFF, Art. 27). In addition to that, associations and commercial companies have to be registered, accordingly, in the Public Registry of Property and the RPC (CCF, Arts. 2673 and 2694).

The partnership agreement for corporations and companies (which presents itself as proof of incorporation and contains the information on the legal form) should include the company name, the address of the registered office (domicile), basic regulation powers, and a list of directors (administrators) (LGSM, Art. 6o). The same applies to foreign legal persons (LGSM, Art. 251).

[96] The "public corporations" are in fact Mexican public authorities both at the federal and local level ("the Nation, the States and the Municipalities"). They will not be covered for the purposes of this report.

[97] See www.gob.mx/se/documentos/manual-de-tramites-para-invertir-en-mexico; **Error! Hyperlink reference not valid.**www.gob.mx/tuempresa

The articles of incorporation of cooperative companies (which present themselves as proof of incorporation and contain the information on the legal form) have to include the following: corporate name and registered office, options of internal management and administration, powers and responsibilities, as well as names of the members of boards and commissions (LGSC, Arts. 12 and 16). There are no requirements to record the name, proof of incorporation, address, basic regulating powers, and list of directors for associations, unions, and professional associations. The information in the RPC and Public Registry of Property is publicly available for a fee (RRPC, Art. 21); however, the information in the RFC is not. Therefore, basic information on certain non-commercial legal persons (namely, unions, professional associations, and others similar organisations) is not publicly available.

Criterion 24.4 — The Commerce Code requires every commercial legal person (which includes corporations and companies, cooperative companies, and mutual societies) to maintain all books and documents (which also includes articles of incorporation) related to their business for 10 years (CC, Art. 46). In addition, cooperative companies and mutual societies have to submit all relevant information to the RPC (see above), which is a broader requirement than maintaining it within the company. Foreign legal persons are required to submit all relevant information to a registry of foreign investments (RLIERNIE, Art. 38). There is no requirement to maintain the information set out in criterion 24.3 for other types of legal entities (unions, professional associations, associations).

Corporations are required to keep a register of their shareholders, containing the amount of their contribution and any transfer thereof (LGSM, Art. 73). The law does not specify the location where the register should be kept, but it is assumed that it is kept at the address that is recorded in the RPC.

There are no obligations for cooperative companies, unions, associations, and foreign legal persons to maintain a register of their members/shareholders.

Criterion 24.5 — There is no requirement per se to ensure that information referred to in criteria 24.3 and 24.4 is accurate and updated on a timely basis. The articles of incorporation for commercial companies (which includes corporations and companies) have to be certified by a notary[98] (CC, Art. 25). Any transfer of ownership interest in corporations must be entered into the register of shares held within the company for it to be effective to third parties (LGSM, Art. 73), and the transfer of ownership of shares representative of minimum fixed capital stock of the companies should be formalised before public notary. However, a simple transfer of shares representative of the variable capital stock from one person to another will not require any certification before the notary and, as such, will not likely be reflected in the RPC/RFC. These requirements fall short of the standard.

Criterion 24.6 — There is no general obligation for all companies to obtain and hold BO information under Mexican law. Competent authorities may rely on the existing information held by FIs and DNFBPs (see R.10 and R.22); however, timely access to this information is not ensured (see also c.24.10 below).

Criterion 24.7 — As mentioned above (see criterion 24.6), there is no general obligation for companies or company registries to obtain BO information and, accordingly, there is no obligation to keep it up to date. At the same time, FIs and DNFBPs are required to keep CDD information up to

[98] There is an exception to this requirement for the so-called "Simplified Companies by Shares" whereby the process of incorporation can be carried out online individually by the shareholder(s) (LGSM, Arts. 260 and 262). The accuracy of the personal data is ensured through an advanced electronic signature that can only be obtained at a personal appointment where the identity and the address are verified (RCGSAS).

date, which in certain limited cases (DNFBPs and OFSPs) might include BO information (see c.10.5 and c.22.1).

Criterion 24.8 — There are no specific provisions requiring companies to cooperate with competent authorities in determining the beneficial owner.

Criterion 24.9 — When winding up corporations and companies, receivers are obliged to keep the books and records of the corporation on deposit for ten years as from the date on which receivership concludes (LGSM, Art. 245). The FIs and DNFBPs are required to keep all records of their customers for at least five years (see c.11.2 and c.22.2). There are no similar requirements applicable to other types of legal persons.

Criterion 24.10 — Basic information kept in the RPC is publicly available and thus can be obtained by competent authorities in a timely manner. In addition to that, the FIU, the PGR, and the SAT have direct access to the RFC, and the CNBV can obtain access to it via the SAT upon request. The FIU/SHCP (but not other competent authorities) has the power to require the information, documentation, data, and images that are needed for the exercise of its functions, which also includes basic information which is kept by legal persons (such as registers of shareholders or members) (LFPIORPI, Art. 6.II). In addition, the FIU, the SAT, and supervisors have the power to request all information and documents (which in certain limited cases might include BO information obtained in the course of CDD) from the FIs and DNFBPs (Internal Regulation of the Ministry of Finance and Public Credit—RISHCP, Art. 15.VI; RISAT, Art. 49.VI and VIII; see also c.27.3 and c.28.4). However, in order to be able to use that power, competent authorities need to identify, in the first place, the FI or DNFBP where a company has an account. In the absence of a central registry of bank accounts (or a similar mechanism), timely access to BO information cannot be ensured.

Criterion 24.11 — Corporations and companies are not able to issue bearer shares in Mexico (LGSM, Art. 124).

Criterion 24.12 — Nominee shares and nominee directors are not allowed in Mexico since 1) all shares have to be represented by nominative certificates that serve to demonstrate and convey the owner quality and shareholder rights (LGSM, Art. 111); and 2) the positions of administrator, counsellor, and manager are personal and cannot be performed by a representative (LGSM, Art. 147).

Criterion 24.13 — Legal persons and their representatives are liable for failure to comply with the requirements to register in the RPC/RFC (LGSM, Art. 158.III). Non-compliance with this requirement is punished with a sanction of three months to three years of prison (Tax Criminal Code, Art. 110–I), which appears dissuasive and proportionate. However, there are no specific sanctions foreseen for failure to comply with the requirements to maintain and update a register of shareholders or members.

Criterion 24.14 — Insofar as basic information is available in the public commercial register (see criterion 24.3), it can also be accessed by foreign competent authorities (by virtue of its public nature). Measures provided for in criminal procedural law can also be used to provide basic and BO information in the context of international cooperation subject to requests for MLA (see R.37 and R.40). There are no specific provisions concerning the exchange of information on shareholders.

Criterion 24.15 — The NRA on ML/TF contains a chapter which analyses general statistics on the quality and results of the international legal assistance requested by the Mexican authorities, but it does not include information concerning requests for basic and BO information.

Weighting and Conclusion.

Most of the essential criteria, especially those that relate to beneficial owner information obligations, are only partly met; therefore,

Mexico is partially compliant with R.24.

Recommendation 25—Transparency and Beneficial Ownership of Legal Arrangements

In its 2008 report, Mexico was rated largely compliant with former R.34 as there were some concerns with regard to the effectiveness of its implementation. The FATF Standards have also been expanded.

Criterion 25.1 — The only legal arrangement that can be established under Mexican law is called fideicomiso whereby the settlor (fideicomitente) transfers the right of ownership or other rights over property to a trustee (institución fiduciaria or fideicomisario) in order to achieve certain licit purposes in favour of a beneficiary (beneficiario), if such beneficiary is designated (LGTOC, Art. 381). Only persons explicitly authorised by law may serve as trustees (LGTOC, Art. 385). Mexican legislation specifies that trustees can only be FIs (banks, brokerage firms, multiple-purpose finance companies, credit unions, insurance institutions, and bonding institutions) (LIC, Art. 46.XV; LACP, Art. 36.III.d; LMV, Art. 171.XIV; LFI, Art. 39 Bis.VI; LUC, Art. 40.XVI; LISF, Arts. 118.XXIII and 144.XVII; LOFNDARFP, Art. 7.XI). Non-bank lending institutions can only be trustees in warranty trusts (fideicomiso de garantía), which are normally used for the financing to purchase real estate by foreigners (LGOAAC, Art. 87Ñ). Trusts should be registered in the RFC if they generate revenue (Tax Miscellaneous Resolution for 2006 Rule 2.3.30) or in the RPPC if they relate to real estate property (LGTOC, Art. 388).

a) Since only FIs can be trustees, all CDD measures as set out in R.10 are equally applicable to the parties to the trust arrangement.

b) Being subject to prudential and AML/CFT supervision, Mexican FIs acting in the capacity of trustees have to obtain basic information on all parties with which they enter into a relationship.

c) Since only FIs can be trustees, all record-keeping measures as set out in R.11 are equally applicable to trust arrangements.

However, the deficiencies in the CDD and record-keeping requirements for FIs (see R.10 and R.11) prevent this criterion from being fully met.

Criterion 25.2 — All information with relation to trusts (fideicomisos) will be held by FIs in their capacity as trustees. Accordingly, the requirements of c.10.7, as well as the related deficiencies, will apply (see R.10).

Criterion 25.3 — Mexican fiduciary institutions must present themselves as such with their counterparts in all legal acts performed in compliance with the trusts entrusted to them (Circular Banco de México 1/2005 Rule 4.1). FIs and DNFBPs are required to establish whether their customers are acting on someone else's behalf and verify their status (see c.10.4–5, c.22.1).

Criterion 25.4 — There are no legal provisions in the Mexican law or other enforceable means that would prevent the trustees from disclosing any information relating to the trust.

Criterion 25.5 — Competent authorities have the necessary powers to access information held by FIs (including when they act in the capacity of trustees) and DNFBPs with regard to their clients pursuant to their obligations under R.10 and R.22. This includes information on BO, residence of trustee, and assets held or managed. The timely access is ensured through trusts being registered in the RFC, the RPPC, the Trust Control and Transparency System, or the Information Department of the Financial System of the Bank of Mexico.

Criterion 25.6 — Mexican competent authorities can facilitate access to the RFC and the RPPC to foreign competent authorities only for tax purposes. They can exchange domestically available information as well as use measures provided for in criminal procedural law to obtain BO information in the context of international cooperation, subject to requests for MLA (see R.37 and R.40).

Criterion 25.7 — All FIs, including when they act as trustees, are legally liable for failure to fulfil AML/CFT requirements, including those related to CDD measures.

Criterion 25.8 — There are sanctions for failure to grant to competent authorities timely access to information regarding trusts; however, they do not appear to be proportionate and dissuasive (also see R.35).

Weighting and Conclusion

Mexico fully or mostly meets most of the essential criteria.

Mexico is therefore largely compliant with R.25.

Recommendation 26—Regulation and Supervision of Financial Institutions

In its Third Round MER, Mexico was rated partially compliant with respect to former R.23. Noted deficiencies included weak supervision and oversight of a number of financial sectors (including money changers, remitters, and insurance intermediaries), insufficient capacity for planning and conducting on-site inspections, and inadequate supervision of Mexican institutions' cross-border activities.

Criterion 26.1 — The SHCP is the body responsible for the overall regulation of compliance with AML/CFT obligations, but operational responsibility is delegated by statute to a number of supervisory authorities (so-called "decentralised government bodies"). Article 16 of the LFPIORPI specifies that the supervision, verification, and oversight of FIs' compliance with the preventive measures shall rest with the CNBV, CNSF, and CONSAR. The CNBV is responsible for the consolidated supervision (including AML/CFT) of financial holding companies, credit institutions (full-service and development banks), capital markets intermediaries, investment companies, credit unions, financial leasing companies, factoring companies, savings and loan companies (including cooperatives), general deposit warehouses, exchange houses, exchange centres, money remitters, finance companies,[99] investment advisors, and various entities providing finance to rural areas. The CNSF has supervisory responsibility for the insurance sector and bonding institutions (under LISF), while the CONSAR has powers to supervise pension fund administrators (under LSAR). Except where the

[99] Under Articles 56 and 57 of the LGOAAC, the CNBV supervises unregulated multiple-purpose finance companies (SOFOMES ENR) exclusively to verify the compliance in AML/CFT matters. Regulated multi-purpose finance companies are supervised for both prudential and AML/CFT purposes.

service is provided by a regulated FI, the issuers of travellers cheques, credit cards and stored-value cards, and the providers of safe-custody services are monitored for AML/CFT compliance (under LFPIORPI) by the Ministry of Finance through the operations of the tax authorities (SAT).

Criterion 26.2 — Under the relevant governing legislation (LIC, LISF, and LMV), banks (and other deposit-takers), capital markets intermediaries, and insurance companies (i.e., the Core Principles FIs) are required to be licensed by their respective supervisory bodies. All other FIs are also required to be licensed, with the exception of (a) exchange centres,[100] money remitters, and investment advisors, which must be registered with the CNBV; (b) issuers of travellers cheques, credit cards, and stored-value cards, and the providers of safe-custody services, which must be registered with the SAT; and (c) unregulated multi-purpose finance companies, which must be registered with CONDUSEF, although they are subject to AML/CFT supervision by the CNBV.

There are no specific provisions in Mexican legislation that prohibit the licensing of shell banks. However, the licensing criteria within the LIC effectively preclude such entities from being established, as they require applicants to have their corporate domicile within the national territory, and the entities to appoint senior management who are deemed to be residents of Mexico in accordance with the Federal Tax Code.

Criterion 26.3 — The Mexican legal framework contains a number of provisions that have been designed to try to prevent criminals from obtaining shareholdings or management positions in FIs. With respect to credit institutions, the LIC sets share ownership thresholds of five percent and twenty percent, at which points a prospective shareholder must obtain prior approval from the CNBV. Similar provisions (but sometimes with different thresholds) apply to other types of FI supervised by the CNBV for prudential purposes. More generally, the relevant legislation prohibits the appointment to the administrative board or to a senior management position of anyone who has been convicted of property-related crimes or who has been previously disqualified from holding a position in the public service or the financial sector. The CNBV is empowered to remove anyone whom it considers to be "untrustworthy" from a management position.

Similar provisions relating to shareholding and management exist in the insurance legislation. In the case of exchange centres and money remitters, the registration provisions (DCGREG) require that directors, managers, and persons holding 50 percent or more of the shares (at the time of registration or when subsequent changes take place) must submit a sworn statement that they have not been convicted of a felony resulting in imprisonment of one year or more, and have not been barred from positions in the Mexican financial sector or public service. Unregulated multi-purpose finance companies are registered by the CONDUSEF, which requires a technical opinion of AML/CFT compliance from the CNBV before registration can take place.

There are no vetting procedures for owners or managers of the issuers of travellers cheques, credit cards, and stored-value cards, or the providers of safe-custody services supervised by the SAT. There is a simple filing requirement in order to obtain registration (RLFPIORPI, Art. 12).

Criterion 26.4 —

a) Relevant FIs are regulated and supervised by the CNBV and CNSF to a large extent in line with the Core Principles established by the BCBS, IOSCO, and IAIS. The IMF's 2012 assessments of compliance with the various Principles concluded that Mexico achieved a broadly satisfactory

[100] Unlike exchange houses, exchange centres may not transfer funds by wire and are restricted to transactions falling below USD 10 000 with any single customer on a daily basis.

level of compliance with most of the BCBP, IOSCO, and IAIS standards. However, the assessments raised some concerns about two aspects that are important in the context of technical compliance relating to AML/CFT supervision: the autonomy, authority, and resources of the CNBV and the CNSF; and the ability of the CNBV to apply consolidated supervision to financial groups, especially so-called mixed groups. The operational independence of the supervisory authorities remains constrained, with the executive having direct influence over their governance and affairs. Also, the CNBV has no legal authority to supervise the financial entities within mixed groups on a consolidated basis.

b) The overall approach to supervising Core Principles institutions extends to all institutions for which the CNBV has responsibility, except with respect to exchange centres, money remitters, and investment advisors, for which the CNBV has a narrower statutory role that does not involve prudential supervision but does include monitoring and ensuring compliance with AML/CFT requirements. The SAT has statutory responsibility for monitoring AML/CFT compliance by issuers of travellers cheques, credit cards, and stored-value cards. The supervisory framework has regard to the risks in the respective sectors (see criterion 26.5).

Criterion 26.5 — The supervisory roles of the CNBV, CNSF, and CONSAR are guided by specific regulations (e.g., RSCNBV, RICNSF) that require them to establish annual AML/CFT inspection programmes, specifying the objectives to be achieved and the means through which the programmes will be fulfilled. The regulators are empowered to take risk into account in their supervisory approach (e.g., RICNBV, Art. 16). All three have developed risk models that are intended to focus their inspection programmes. The inputs to the risk models are based on regular reporting by the institutions (either directly with the supervisors or with the FIU), but do not appear to explicitly take account of the broader national and sector risks identified by the NRA. With respect to issuers of travellers cheques, credit cards, and stored-value cards, the SAT primarily uses its tax-monitoring powers to identify transactional irregularities and risk behaviour to target its annual inspection programme, but it is also developing a more focused risk matrix.]

Criterion 26.6 — The risk matrix for credit institutions is updated by the CNBV on a quarterly basis, in line with the receipt of form R24E from the institutions. Similarly, for other institutions supervised by the CNBV (apart from exchange centres, money remitters, and unregulated multi-purpose finance companies), the input data for the risk matrix is received from the FIU on a quarterly basis. As regards exchange centres, money remitters, and unregulated multi-purpose finance companies, the CNBV receives six-monthly data from the relevant institutions that is used as part of the risk analysis.

The CNSF's ML/TF and global risk matrices are updated quarterly based on regular reporting by the institutions, or whenever there is a change in relevant regulations. In principle, the CONSAR will update its risk matrix on an annual basis. The SAT reports that it reviews the risk profiles of the FIs that it supervises, but no details have been provided on the basis and frequency of such reviews.

Weighting and Conclusion

The three primary supervisors all have similar approaches to supervision, but the SAT's role is far less developed, although it only has responsibility for a handful of non-core FIs. The CNBV has no authority to apply consolidated supervision to FIs within mixed groups.

Mexico is largely compliant with R.26.

Recommendation 27—Powers of Supervisors

In its Third Round MER, Mexico was rated fully compliant with the former R.29.

Criterion 27.1 — The primary legislation governing each type of institution within the financial sector imposes obligations on the institutions to comply with AML/CFT requirements (e.g., LIC, Art. 115; LMV, Art. 212; LISF, Art. 492, and LGOAAC, Art. 95 Bis). The same laws and accompanying regulations grant the respective regulators (CNBV, CNSF, and CONSAR) a broad range of powers to supervise licensed and registered institutions for compliance with both prudential and AML/CFT requirements, using on-site and off-site techniques. The supervisory powers with respect to AML/CFT are also reiterated in a range of other legislation and regulation (e.g., RICNBV, Art. 43). The Ministry of Finance has the power (exercised through the SAT) to monitor issuers of travellers cheques, credit cards, and stored-value cards, and the providers of safe-custody services for compliance with AML/CFT obligations (e.g., RLFPIORPI, Art. 4).

Criterion 27.2 — All the financial sector regulators and the SAT have the legal authority to conduct inspections (whether routine, special, or investigatory) of the entities that they supervise or monitor for AML/CFT compliance (e.g., LCNBV, Art. 5; LIC, Art. 117; LISF, Art. 366; LSAR, Art. 89; LGOAAC, Art. 56).

Criterion 27.3 — All the financial services regulators and the SAT have the legal authority, through the various financial sector laws and the AML/CFT legislation, to request any relevant information from the institutions that they supervise (e.g., LIC, Art. 97; LFI, Art. 80; LISF, Art. 382; LMV, Art. 390; LGOAAC, Arts 51–A and 56, RLFPIORPI, Art. 8; various Articles in RICNBV). In addition, the primary legislation governing the banking, securities, and insurance sectors contains provisions requiring institutions to file reports relating to failings in their AML/CFT programmes that they, themselves, have identified (e.g., LIC, Art. 115; LMV, Art. 212; LISF, Art. 492). The exercise of these powers does not depend on the supervisors obtaining court orders.

Criterion 27.4 — Article 52 of the LFPIORPI provides that the relevant financial sector supervisory authorities shall apply sanctions for non-compliance with the preventive measures, based on the powers granted to them in each of the laws governing the specific financial activities. Under these laws, the supervisory authorities have a varying range of powers to impose sanctions for regulatory breaches, including those relating to AML/CFT. The CNBV's own governing legislation (LCNBV, Art. 12) gives it general powers to admonish, suspend, remove, and bar people in key positions in FIs; to intervene administratively and managerially where breaches of laws occur; and to apply administrative sanctions. The sector-specific laws further define these powers. With respect to credit institutions (LIC, Arts. 108 and 129), the CNBV may require the removal of management and can impose administrative fines (from a defined list) on both the institution and management. Similar provisions in relation to administrative fines exist within the securities legislation (LMV, Art. 392). The CNBV has the power to revoke a banking license for a number of reasons (LIC, Art. 28), but none of these relate to a failure to comply with AML/CFT requirements. With respect to brokerage firms, the CNBV may revoke a license for repeated or serious breaches of legal or administrative obligations (LMV, Art. 153).

The legislation governing the insurance sector gives the CNSF a broad spectrum of powers to require institutions to undertake remedial measures, to remove management, to impose financial sanctions, and, ultimately, to revoke an institution's authorisation (e.g., LISF, Arts. 320, 325 332, 333, and 369). The CONSAR has powers to apply financial sanctions and to require pension fund administrators to

take whatever measures are deemed necessary to protect the pension funds (LSAR, Arts. 5, 93, and 99). With respect to money remitters and exchange centres, the CNBV has the powers to impose administrative fines (on both the institution and the individuals), to remove management, to suspend or close their operations, and, ultimately, to revoke the registration for breaches of the provisions of their governing legislation (LGOAAC, Arts. 64, 74, 81–D, and 95 Bis). With respect to issuers of travellers cheques, credit cards, and stored-value cards, and the providers of safe-custody services, the LFPIORPI provides only for administrative fines to be applied by the Ministry of Finance. Neither the ministry nor the SAT has the legal authority to apply remedial measures not linked to financial penalties.

Weighting and Conclusion

The three primary supervisors all have similar statutory powers, except that the CNBV does not have explicit power to revoke a banking license for breaches of AML/CFT failings. The SAT only has the power (through the Ministry of Finance) to impose financial penalties.

Mexico is largely compliant with R.27.

Recommendation 28—Regulation and Supervision of DNFBPs

In its 2008 report, Mexico was rated non-compliant with former R.24 as DNFBPs were not subject to any AML/CFT requirements.

Criterion 28.1 — With respect to gambling:

a) All gambling establishments (which include casinos and lotteries) need a special permit (license) from the SEGOB to operate (LFJS, Art. 4; RLFJS, Art. 2).

b) In order to obtain the permit, the applicant has to submit a written request containing a declaration under oath that the applicant, its shareholders, officers, and other employees in managerial positions have not been prosecuted or convicted for premeditated offences of an economic nature, tax, organised crime, or operations with illicit proceeds (RLFJS, Art. 21.III.b), Art. 22.II.e), Art. 22.IV.d)). The Ministry of the Interior has the responsibility to verify the information provided in the applications (RLFJS, Art. 27). The requirement does not seem to cover associates of criminals.

c) AML/CFT supervision is performed by the Tax Revenue and Customs Service (RLFPIORPI, Art. 4.III and IV).

Criterion 28.2 — SAT is responsible for monitoring and ensuring compliance of all DNFBPs with AML/CFT obligations (RLFPIORPI, Art. 4.III and IV; RISAT, Art. 47.I, IV, and V, Art. 49.I, IV, and V, Art. 53.I).

Criterion 28.3 — All categories of DNFBPs are subject to monitoring and supervision by the SAT (see above).

Criterion 28.4 —

a) The Ministry of Economy and Public Credit (SHCP), of which the Tax Revenue and Customs Service is a part, has the power to perform its functions which include powers to monitor compliance, request information and documents, perform on-site visits, request the appearance

of relevant persons, and ask for the assistance of police to enforce its requests (LFPIORPI, Arts. 6.II, III, V, VI, and VIII, 34, and 37). The powers of the supervisors are limited to the review of those transactions that have been conducted within a five-year period prior to the on-site visit (LFPIORPI, Art. 36). This may have a negative effect on the supervision of DNFBPs that have existing business relationships that were established more than five years prior.

b) There are no specific measures foreseen in order to prevent criminals or their associates from being professionally accredited, or from holding a significant or controlling interest in DNFBPs (other than casinos). The only exception is the requirement for a public broker to have no criminal record for intentional crimes punishable by imprisonment in order to be granted accreditation (LFCP, Art. 8).

c) There are sanctions available to the SHCP to deal with failure to comply with AML/CFT requirements (LFPIORPI, Arts. 53 and 54; RLFPIORPI, Art. 4.VII). That includes administrative fines and revocation of authorisation, in case of public notaries (LFPIORPI, Arts.54, 57, 58, and 59). The fines range from 200 to 2 000 "days of the general minimum wage" for the failure to comply with CDD and record-keeping obligations (which is equivalent to a range of USD 634 to USD 6 340) and 10 000 to 65 000 "days of the general minimum wage" for the failure to submit STRs (which is equivalent to a range of USD 31 700 to USD 206 050).[101] The amount of the fine is determined by the amount involved in the activity or transaction underlying the violation and the cases of recidivism (i.e., repeated violations). The fines do not appear to be proportionate and dissuasive (see also R.35).

Criterion 28.5 — There are generic provisions that require the Tax Revenue and Customs Service to establish programmes, activities, and procedures regarding its supervisory functions (RISAT, Arts. 47.I, 49.I, and 54.I) but without any reference that it should be performed on a risk-sensitive basis. Mexican authorities state that monitoring of all DNFBPs is carried out with a risk-based approach that takes into account the risk profile of each of the sectors and entities, which in its turn is produced by the FIU.

Weighting and Conclusion

Two criteria of R.28 are met; one is mostly met; two are partly met. The most important deficiencies relate to an absence of measures to prevent criminals or their associates from being professionally accredited or from holding a significant or controlling interest in DNFBPs, a lack of provisions establishing the risk-based approach in supervision, as well as a lack of proportionate and dissuasive sanctions to ensure compliance.

Mexico is partially compliant with R.28.

Recommendation 29—Financial Intelligence Units

In the Third Round of MER of 2008, Mexico was rated as largely compliant for R.26 related to its FIU. The main shortcomings identified related to a lack of access to STRs from exchange centres money services businesses and unregulated SOFOMES, a lack of access to criminal records, and a low number of staff compared to the FIU load of work.

[101] As of January 2017

Criterion 29.1 — The Executive Order, which reforms the RISHCP to create the FIU as a central administrative unit from the SHCP, was published in the Federal Official Gazette in May 2004. The FIU is the national centre for receipt and analysis of STRs and other information relevant to ML/TF, and for the dissemination of the results of that analysis. The FIU is an independent administrative unit formally housed within the structure of the Office of the Minister of Finance and Public Credit, in accordance with a resolution published in the Gazette in November 2004 and amended in July 2006. Its attributions are set forth under Article 15 of the Internal Regulations.

Criterion 29.2 — The FIU is the unit in charge of exercising the powers of the SHCP to prevent, detect, and deter ML/TF activities. The FIU is responsible for receiving, analysing, and disseminating the information contained in the STRs, threshold reports, and declarations referred to under Article 9 of the Customs Law (declarations of cash-ins, cash-outs, and receivables) (Article 12, section XIX of the internal regulations of the SAT). The SHCP has the competence to determine the characteristics that the actions, transactions, and services must meet to be reported, taking into consideration the amounts, frequency, and nature of the monetary and financial instruments used for such purposes, and the business and banking practices followed in the locations where they are carried out. It also has the competence to prescribe the reporting forms, in addition to the time frames within which the reports must be transmitted to the FIU, and the systems through which the information must be transmitted.

Criterion 29.3 —

a) The FIU is able to obtain and use additional information from reporting entities as needed to perform its analysis properly. According to Article 15, sections VII and XXXI of the Internal Regulations, the FIU has the authority to request additional information from reporting entities and to inform both the reporting entities and the corresponding supervisory bodies of the usefulness and quality of the reports it receives. The STRs from FIs are received indirectly by the FIU through their respective supervisory agencies; those from DNFBPs are filed through the electronic system. Additionally, the supplementary information from reporting entities has to be collected indirectly through the supervisory authorities. It is not clear whether the FIU can obtain information from all reporting entities apart from the entity that filed the report.

b) The FIU has access to a broad range of financial, administrative, and law enforcement information that it requires to properly undertake its functions.

The FIU has access to the database of the Public Registry of Commerce[102] (maintained by the Ministry of the Economy), the Integrated System for Immigration Operation[103] (maintained by the National Immigration Institute), and the National Registry of Penitentiary Information (maintained by SEGOB).[104] The FIU also has direct access to the main tax and customs databases, including tax

[102] Direct online access to information from the Ministry of Economy on corporations registered (registry page, company name, state, municipality, address, date of incorporation, corporate purpose, partners or shareholders, share capital, and type of capital) and from the partners or shareholders (number of shares) available in the Public Registry of Commerce.
[103] Direct access online where information on entries into and departures from Mexico by nationals and foreigners can be found along with migratory operation reports.
[104] FIU receives as intelligence information data from the National Registry of Penitentiary Information, which contains data on all persons prosecuted and interned in the penitentiary system between 2011 and 2016 for committing crimes against health, specifically on enervating and psychotropic substance matters, against the internal security of the state, and against national security. This database is continuously monitored within the FIU's cross-listing process and is available for analysts. This register is updated periodically in order to take into account new registrations.

data,[105] such as Format 35, which contains the declarations submitted by every taxpayer to the SAT on cash receipt for any sale, lease, or donation which exceeds MXN 100 000 (approximately USD 9 500). Customs declarations of trans-border transportation of cash exceeding USD 10 000, as well as information on the confiscation of undeclared cash amounts, are also sent on a frequent basis to the FIU through a physical memory device. The FIU has direct access to a number of private databases.[106]

The FIU creates and maintains databases with information on persons whom the prosecution authority of justice requires information to keep them under monitoring. For instance, the FIU collaborates with the PGR on investigations, initiated either by a request from the PGR or from the FIU. In cases where a request is sent by the FIU to the PGR, the FIU has access to PGR records and databases. The FIU also maintains a database with information on people who are investigated for an offence identified through an STR sent by the obligated subjects. Through public access to PGR information and publications in the Official Gazette of the Federation, the FIU generates a database containing the names of the most wanted criminals by the authority. However, the FIU does not have direct access to information contained in a number of databases maintained by law enforcement authorities, in particular, criminal information records which, due to secrecy provisions, can only be accessed by the FIU in cases that are being investigated by the PGR or by the police with whom the FIU collaborates.

Criterion 29.4 —

a) The FIU conducts operational analysis, which uses available and obtainable information to identify specific targets related to possible POC, ML, predicate offences, and TF.

b) The FIU conducts strategic analysis, which uses available and obtainable information, including data that may be provided by other competent authorities, to identify ML/TF-related trends and patterns. In addition to the information described above, the FIU uses the following public information sources to conduct strategic analysis: National Institute of Statistics, Geography and Informatics, the Central Bank, the PGR, and the CNBV.

Criterion 29.5 — According to Article 15, Fraction XII, of the SHCP Internal Regulations, the FIU is authorised to provide to competent national authorities any information or documentation that is necessary for the authorities to carry out their duties. In this context, the FIU disseminates intelligence information to the competent authority in charge of coordinating criminal investigations and prosecuting federal crimes, namely the Attorney General's Office (PGR), and to the competent authority in charge of investigating tax fraud, namely the SAT, according to Articles 15–f, Fraction VI and 15–h, Fraction VII of the Internal Regulations. This dissemination is conducted in a proactive manner, through the transmission of intelligence reports and making complaints with the PGR based on the analysis of transaction reports and other available information. The FIU also disseminates information on a reactive basis by attending to requests for information from the PGR or the judicial authorities. The FIU is able to disseminate, spontaneously and upon request, information and the results of its analysis to relevant competent authorities. Based on MOUs, the FIU relies on secure emails or physical confidential reports to disseminate information to specific recipients.

[105] Direct online access to the main tax and customs databases. The Format 35 database is received monthly and it is updated in the FIU database search tool. Similar to the way in which FIU receives information from Customs declarations, this data is uploaded into the FIU search system.
[106] Information related PEPs or used to identify criminal records of an individual under analysis. These databases are World-Check, and WorldCompliance. LexisNexis supplier information is currently being acquired.

Criterion 29.6—

a) According to Article 15.G.VI of the internal regulation, the FIU should develop rules that will govern the security and confidentiality of information, including procedures for the handling, storage, dissemination, and protection of and access to information.

b) Since the FIU is considered a national security agency, Article 10 of the National Security Law applies to the FIU and states the following: Prior to its admission, personnel from national security institutions will agree with the hiring institution to maintain the secrecy and confidentiality of the information they possess during or due to their performance.|| The General Law of Transparency and Access to Public Information requires the classification of any information that could undermine national security or public security (Article 113). In case of a violation of this duty, an employee is subject to administrative and criminal sanctions. Furthermore, the FIU ensures that its staff members have the necessary security clearance levels and an understanding of their responsibilities in handling and disseminating sensitive and confidential information through a number of demanding examinations that assess the FIU candidates' competence from both a technical and a trustworthiness aspect during the hiring process (e.g., knowledge tests, psychological analysis, and socioeconomic studies).

c) The FIU ensures that there is limited access to its facilities and information, including information technology systems. Article 28 of the Administrative Handbook for General Application on Information Technology and Security of the Federal Government qualifies information on a three-level scale and using the document classification levels, a user is evaluated to determine the level of information access he or she should be granted in order to exercise his or her official function. The FIU offices consist of a five-story building with bullet proof windows (5+ level) and around-the-clock federal police protection. Access to each floor requires a code and fingerprint identification. In addition, the area where the hardware and software are located is protected with additional bulletproof infrastructure. Also, all employees go through metal detectors and strict registration measures on a daily basis and are required to keep their office IDs visible at all times.

Criterion 29.7 —

a. The FIU reports directly to the Office of the Minister of Finance and Public Credit. The minister of finance and public credit appoints the director of the FIU. Article 15 of the Internal Regulations defines the FIU's powers and duties as a central, independent, and autonomous authority to receive, process, and disseminate the financial information relative to the crimes of ML/TF. Article 15 ensures that only the FIU can undertake the actions contemplated in the Internal Regulations without the participation of any other area of the ministry. In addition, the information managed by the FIU cannot be made available to any other agency or department of the ministry, except for those areas that have legal competence to receive such information, i.e., tax and customs authorities. The FIU has a separate budgetary unit, can determine its own budget, and has the power to directly request for and obtain from the SHCP administrative support to perform its duties, according to Article 15, Fraction XXXII of the Internal Regulations, which confers to the FIU the same powers granted to the under-secretariats of SHCP.

   The FIU has autonomous decision making process to analyse, request, and/or forward or disseminate specific information. The decision making to initiate an analysis is performed by considering the risk model and the priorities set by the head of the FIU and the head of the analysis function. Once the analysis starts, the head of the analysis unit could determine to

request additional information; in some cases, authorisation from the head of the FIU is necessary for such an information request. Every dissemination is authorised by the head of the FIU.

b) (c), and (d)— The FIU is able to make arrangements or engage independently with other domestic competent authorities or foreign counterparts on the exchange of information (Article 15, sections XVII and XIX). As indicated above, the FIU has distinct core functions that differ from those of the Ministry of Finance. The FIU is able to obtain and deploy the resources needed to carry out its functions, on an individual or a routine basis, free from any undue political, governmental, or industry influence or interference, retaining its operational independence.

Criterion 29.8— The FIU was recognised as a member of the Egmont Group in 1998.

Weighting and Conclusion

Mexico is compliant with Recommendation 29.

Recommendation 30—Responsibilities of law enforcement and investigative authorities

In the Third Round MER of 2008, Mexico was rated as partially compliant for R.30 (formerly R.27). The main shortcomings identified related to deficiencies in the investigation of ML offences by the PGR; an insufficient focus on ML committed through the financial system; and an underutilization of financial intelligence reports from the FIU/financial sector. Furthermore, the understaffing of the PGR's -SEIDO and SEIDO's specialised sub-units were considered to affect Mexico's capacity to conduct ML investigations and prosecutions in an effective manner. Lastly, it was noted that the reorganisation of the federal forces of investigation had created coordination difficulties between those forces and the PGR, negatively impacting ML investigations and prosecutions.

R.30 contains more detailed requirements than former R.27.

Criterion 30.1— Article 21 of the Mexican Constitution provides that the investigation of crimes is the responsibility of the federal prosecutor[107] and the police who shall act under the direction and control of the Federal Prosecutor. Specific effect is given to this statement of principle by several legal instruments which identify different authorities with responsibility for ensuring that ML, predicate offences, and TF are properly investigated within the framework of national AML/CFT policies. In order to identify the competent authorities and the mechanisms in place to ensure coordination, each of these instruments will be examined.

(i) The PGR. The LOPGR establishes the structure of the PGR for the purpose of discharging the functions entrusted to it by the Constitution and the law. Article 4 provides that the PGR has the power to investigate and prosecute federal offences, including ML, associated predicate offences, and TF. The LOPGR also envisages that the PGR will participate in the National System of Public Security, which ensures that the PGR is fully involved in the development and implementation of mechanisms for coordination with the Federal Police and other public security institutions.

(ii) Units with competence for ML/TF within the PGR (SEIDO). In order to identify who within the PGR is responsible for investigating ML, predicate offences, and TF, reference must be made to

[107] The federal prosecutor works at the federal level, while the state prosecutor works at the level of the different states comprising the United States of Mexico. Both belong to the Mexican Public Prosecution Office (Procuraduría General de la República de Mexico).

Article 8 of the LFCDO and Articles 2, 15 and 16 of the RLOPGR which, in 2003, established the SIEDO (subsequently renamed SEIDO). In addition, the Agreement A/068/03 of the PGR allocated within the SIEDO the investigation and prosecution of serious offences, in particular, drug trafficking and ML. The SEIDO comprises six different specialised units, which include the UEIORPIFAM and the UEITA. These two units have legal authority to investigate and prosecute ML and terrorist offences, including TF. SEIDO also comprises other specialised units that investigate drug trafficking and extortion when the offences are committed by organised crime groups. If ML is not perpetrated by organised crime groups, the offence will be investigated by the UEAF.

(iii) Unit with competence for the predicate offence of corruption within the PGR. One other important point to note is that, in addition to the two specialised units mentioned above, there is the FADC, not part of SEIDO, whose mandate is the investigation and prosecution of corruption, in line with Articles 10 Bis and 10 Ter LOPGR.

(iv) Financial analysis and ML investigations within the PGR. In the area of financial analysis, Article 7 of the Federal Law on the Prevention and Identification of Transactions with Illicit Proceeds (LFPIORPI) created the Special Financial Analysis Unit (UEAF). This unit, which forms part of the PGR, has responsibility for conducting financial and accounting analyses of ML transactions as well as ML investigations under the direction of the federal prosecutor. Article 8(IX) LFPIORPI provides that this unit is to cooperate with the SEIDO where there is a link between the investigation into ML and organised crime. Furthermore, Agreement A/078/13 governs the organisation and operation of the UEAF, empowering the head of the UEAF to coordinate with the Federal Public Administration, autonomous public bodies (including bodies of a constitutional nature), as well as with the administrative units and decentralised bodies of the PGR in order to collect and exchange information on potential tax, financial, and ML crimes. Despite the terms of this Agreement A/078/13 and the provisions of Article 12(IX) of the RLOPGR, the relationship between the UEAF and the UEIORPIFAM remains unclear.

(v) Federal Police. Under the LPF, the Federal Police is a centralised administrative agency of the Ministry of the Interior (SEGOB) and its objectives include the investigation of federal offences under the direction and control of the Federal Prosecutor (Article 2.4), as well as the prevention of offences under Articles 16 and 21 of the CPEUM (LPF, Art. 5). The Federal Police comprises different units, such as the Anti-Drug Unit and the Intelligence Unit, and liaison departments, such as Undercover Operations (Article 5 of the Federal Police Law Regulations—RLPF). The Anti-Drug Unit has a team that coordinates investigations into the POC deriving from ML, TF, and organised crime (Article 32 of the RLPF).

(vi) Criminal Investigation Agency. In addition to the Federal Police, reference should also be made to the Criminal Investigation Agency (established by the PGR) whose functions include making requests for information concerning the financial and banking systems in accordance with Article 180 CFPP. This body was established by Agreement A/101/13. Article 6(VII) confers on the director of this agency the power to establish coordination mechanisms with other units. The Criminal Investigation Agency comprises the Federal Ministerial Police, the Department for the General Coordination of Experts Services, and the National Centre for Planning, Analysis and Information to Combat Crime.

Coordination and the exchange of inter-institutional information are done through formal letters. If the police require evidence to be examined, their request will be sent to a specific department

(General Coordination of Experts Services). If they require intelligence information, their request will be sent to the National Centre for Planning, Analysis and Information to Combat Crime.

Furthermore, the General Directorate of Police Investigation incorporates the Department for the Investigation of Operations with Resources of Illicit Origin. One of the main objectives of this department is the coordination of investigations. Despite the existence of these coordination mechanisms, one of the main challenges at police level appears to be ensuring proper coordination between the different police units.

Criterion 30.2 — The UEAF (mentioned in (iv) above) and the UEIORPIAM are the authorities with competence for conducting investigations into ML offences. By law, the UEAF is to cooperate with the SEIDO where there is a link between the investigation into ML and organised crime. Any prosecution unit (Ministerio Público) can conduct financial investigations into predicate offences and can decide whether or not to refer ML to the UEAF or the UEIORPIFAM, but the criteria used to determine which unit is actually to conduct a particular parallel financial investigation are unclear.

Criterion 30.3 — The UEAF has authority to identify and trace property and other financial assets that might derive from a criminal activity (LFPIORPI, Art. 8VIII). Similarly, where an ML offence is perpetrated by an organised crime group, Article 9 of the LFCDO provides that the SEIDO is to conduct its investigation in coordination with the Ministry of Finance and Public Credit. Any requests from the PGR for information or documents relating to the banking or financial system must be made through the National Banking and Securities Commission, the National Retirement Savings System Commission, or the National Insurance and Sureties/Bonding Commission, depending on the circumstances. Requests of a fiscal nature must be made through the Ministry of Finance and Public Credit while those of a commercial nature must be made through the Ministry of Economy and the corresponding registries.

As regards seizure, the Federal Law on Asset Forfeiture (LFED) provides that the courts may, upon request by the Federal Prosecutor, impose the precautionary measures of seizure and attachment. It is the courts which will ultimately order seizure of property or ratify an attachment performed by the Federal Prosecutor. As for confiscation, the Federal Prosecutor alone has the power to bring court proceedings to extinguish ownership and it is the courts which will ultimately take a decision in the matter.

Criterion 30.4 — Since there are no other competent authorities which are not LEAs but which have responsibility for conducting financial investigations into predicate offences, this criterion is not applicable.

Criterion 30.5 — The FADC is the authority with technical and operational autonomy to investigate and prosecute corruption. It has the power to order the seizure of property and initiate asset forfeiture proceedings (LOPGR, Art. 10 Ter(XXIV) and (XXV)). The FADC has the power to conduct investigations in order to secure evidence relating to crimes of corruption (Article 10 Ter(XX)). Consequently, it would appear that, based on this general provision, the FADC also has the power to conduct financial investigations in order to identify and trace assets.

Weighting and Conclusion

The main shortcoming is the lack of a clear delimitation of competences between the authorities with power to investigate and prosecute ML and the limited coordination mechanisms between them.

Mexico is largely compliant with R.30.

Recommendation 31—Powers of Law Enforcement and Investigative Authorities

In the Third Round MER of 2008, Mexico was rated as largely compliant for R.31 (formerly R.28). The main shortcomings identified related to understaffing of the SEIDO and the SEIDO's specialised sub-units, as well as the reorganisation of the federal forces of investigation which had created coordination difficulties. The Third Round MER also recommended that special investigative techniques, particularly controlled deliveries, be applied to ML investigations and that such techniques be extended to all underlying or predicate offences, rather than restricted to those identified in the LFCDO. Lastly, the Third Round MER considered it desirable for the legal framework governing witness protection schemes and the postponement or waiver of arrests to be strengthened.

Criterion 31.1 — The Public Prosecutor (Ministerio Público), as the authority with responsibility for the investigation of ML, predicate offences and TF, is required by law to request reports or documents from other authorities in order to collect evidence (CNPP, Art. 131(IX)). In turn, all persons or public officials are under the obligation to provide information requested by the Public Prosecutor and the police in the exercise of their investigative powers, on pain of a fine (CNPP. Art. 215). Requests from the Public Prosecutor relating to information or documents concerning the financial system must be routed through the National Banking and Securities Commission, the National Retirement Savings System Commission, or the National Insurance and Sureties/Bonding Commission, depending on the circumstances. Requests of a fiscal nature must be made through the Ministry of Finance and Public Credit while those of a commercial nature must be made through the Ministry of Economy and the corresponding registries. The information provided may only be used for the purposes of the corresponding criminal investigation (CFPP, Art. 180). Furthermore, the UEAF is empowered to consult the databases held by the Ministry of Finance and Public Credit which contain information on VA and is able to request the Ministry to provide it with information and documentation on the identity of persons, addresses, and telephone numbers, among others, with a connection to ML. The ministry is under the corresponding obligation to comply with such requests (LFPIORPI, Arts. 8(VIII), 43, 44, and 46).

As regards the search of persons and premises, both the CFPP and the CNPP contain various provisions enabling the Federal Prosecutor to apply to the courts for a warrant to enter and search premises (CFPP, Arts. 2(III) and 61–69; CNPP, Arts. 252 and 282–289).

With respect to the taking of witness statements, the police are required, on the instruction of the Public Prosecutor, to interview such persons as may be able to provide information for the investigation (CNPP, Art. 132(X); LPF, Art. 8(XXIII)). Articles 363 and 371 of the CNPP lay down the rules on the summoning of witnesses and witness testimony. The Federal Law on the Protection of Persons Involved in the Criminal Process lays down mechanisms to ensure that persons who have participated in certain criminal offences are protected if they decide to give evidence.

The seizing and obtaining of evidence is governed by the CNPP, which contains provisions on the securing of evidence and chain of custody for which the police and the Public Prosecutor have responsibility in accordance with the procedures set out in that law (e.g., special provision on securing vehicles and items of equivalent value; see Articles 227–249).

Criterion 31.2 — From a procedural perspective, Mexican law draws a distinction between special investigative techniques which do not require judicial authorisation (controlled deliveries and undercover operations), which can therefore be applied by the Public Prosecutor and the police, and

those which do (such as interception of communications) (CNPP, Arts. 251 and 252). Despite this broad procedural provision, the actual use and application of special investigative techniques is governed exclusively by the LFCDO. Thus, Articles 11, 11 Bis, 11 Bis 1, and 11 Bis 2 of the LFCDO form the legal framework governing undercover operations, while Articles 16–27 of the LFCDO govern the interception of communications. There are two main problems with the legal framework for special investigative techniques: (i) the actual use and application of these techniques seems to be limited to offences committed by organised crime groups, thereby excluding their use in the investigation of serious offences not classed as organised crime; and (ii) although the CNPP makes procedural provision for the authorisation of controlled deliveries and undercover operations, the LFCDO only contains a provision on undercover operations; nowhere does it mention controlled deliveries. The accessing of computer systems is regulated under Article 291 of the CNPP within the framework of the provisions on interception of private communications.

Criterion 31.3 — Mexico has mechanisms in place to identify whether natural or legal persons hold or control accounts and to ensure that competent authorities have a process to identify assets without prior notification to the owner. As indicated in criterion 31.1, the LFPIORPI empowers the UEAF to consult the databases held by the Ministry of Finance and Public Credit which contain information on VA and is able to ask the ministry to provide it with information and documentation on the identity of persons, addresses, and telephone numbers, among others, with a connection to ML. Such requests can only be made in the context of an investigation that has been formally initiated and all information received must be treated as confidential (LFPIORPI, Arts. 8(VIII) and (X), 38, 39, 43, 44, 46, and 51). These provisions are complemented by Articles 11, 31, and 33 of the General Regulations derived from the Federal Law for the Prevention and Identification of Transactions with Illicit Proceeds (RCGLFPIORPI), which apply to the confidential treatment and handling of information.

Criterion 31.4 — Articles 47–49 of the Regulations of the RLFPIORPI state that the FIU must provide to the PGR, through the UEAF (in accordance with a cooperation agreement), the information necessary on VA in order to conduct ML investigations on the terms set out in the LFPIORPI. Article 15, section XII and section XII, of the RISHCP provides that the FIU will provide the PGR with the information required to conduct investigations into terrorism and TF. However, it remains unclear whether this information would be provided for all associated predicate offences.

Weighting and Conclusion

The shortcomings identified in the Third Round MER of 2008 (concerning special investigation techniques, particularly controlled deliveries) remain.

Mexico is largely compliant with R.31.

Recommendation 32—Cash Couriers

In its Third Round MER, Mexico was rated PC for SRIX. In 2008, it was not an offence to make false declarations; cases of cross-border transportation of cash or other bearer negotiable instruments were not thoroughly investigated; customs, immigration, ONDCP, and other competent authorities did not coordinate domestically; the capability of the Customs to identify transactions related to TF activities was limited; and there was no specific Customs' procedure to deal with cross-border transportation of money related to TF.

Criterion 32.1 — The General Customs Administration (Customs) of the Tax Administration Service (SAT) is the central authority on customs matters, according to Articles 2 (section B, subsection II) and 19 of the Internal Regulations of the SAT. Article 9 of the Customs Law establishes a declaration system in connection with the trans-border movement of currency and bearer negotiable instruments.[108][109]The system applies to the entry and exit of cash, national or foreign checks, payment orders, or any other document or any combination thereof exceeding the equivalent of USD 10 000 in the relevant currency or currencies. It also extends to mail and cargo. The declarations must be made in the official forms approved by the SAT. The system applies to the services of international transportation companies for the custody and transportation of securities as well as courier service companies for the entry or exit of any amount of cash or negotiable instruments. Those companies are required to declare the amounts that the parties to whom they provide such services have declared in the official form. The system is also applicable to officials and employees of international organisations.

Criterion 32.2 — The system requires a written declaration for all travellers carrying amounts above USD 10 000. According to Rule 2.1.3 of the foreign trade general rules of 2017, persons bound to declare bringing in and taking out money in cash, national or foreign checks, payment orders, or other securities or a combination thereof exceeding the equivalent amount in the corresponding currency or currencies of USD 10 000 shall complete the official form entitled "Declaration on Bringing and Taking Money in Cash and/or Securities." There is also the option to file the aforementioned declaration electronically by transmitting the required information to the Customs authority through at www.sat.gob.mx.[110]

Criterion 32.3 — Not applicable

Criterion 32.4 — Customs officials do not have the authority to request and obtain further information from the carrier with regard to the origin of the currency or BNIs and their intended use upon discovery of a false declaration of currency or BNIs or a failure to declare. This is only possible when an investigation is initiated and the PGR is called upon.

Criterion 32.5 — When a person fails to make the required declaration (USD10 000 equivalent) or declares less than the amount he or she is carrying (if it exceeds USD 10 000) in violation of Article 9 of the Customs Law, the Customs Authority will prepare a detailed record of the facts (General Rule on Foreign Commerce number 3.7.17, in correlation with Articles 46 and 152 of the Customs Law.).

[108] Credit instruments or securities regulated in Chapters I–VI of Title I of the General Law of Negotiable Instruments and Transactions other than those mentioned in the first paragraph of this rule, as well as any other similar regulated by foreign laws, provided they are payable on demand and shall have been issued to the bearer, have been endorsed without restriction, are payable to a fictitious payee or, otherwise, ownership is transferred with the simple delivery of the title, and any another incomplete instrument that is signed but omits the name of the beneficiary. Credit instruments or securities of nominative character apply to those that had been issued by both domestic and foreign financial institutions."

[109] In addition to cash, Article 9 extends to "national or foreign checks, money orders or any other receivable documents or a combination thereof." According to the FTG rules, credit instruments or securities regulated in Chapters I–VI of Title I of the General Law of Negotiable Instruments and Transactions other than those mentioned in the first paragraph of this rule, as well as any other similar regulated by foreign laws, provided they are payable on demand and shall have been issued to the bearer, have been endorsed without restriction, are payable to a fictitious payee or, otherwise, ownership is transferred with the simple delivery. Credit instruments or securities of nominative character apply to those that had been issued by both domestic and foreign FIs.

[110] Once the information is transmitted, the system will generate an acknowledgment, valid for 30 calendar days from the date of transmission of the information, which will be presented by the interested party, either in printed form or through any electronic device rather than the form entitled "Declaration on Bringing and Taking Money in Cash and/or Securities" before the customs authority.
www.sat.gob.mx/informacion_fiscal/normatividad/formas_fiscales/Paginas/declaraciones.aspx

In the record, Customs must include the amount of cash, national or foreign checks, payment orders, or any other receivable instruments or a combination thereof and include data that allows the identification of the offender. This can include a copy of his/her identification. The application of the sanctions (General Rule on Foreign Commerce number 3.7.17, pursuant to Articles 46 and 152 of the Customs Law) does not exempt the offender from the obligation to complete the declaration form, which includes the obligation to declare the origin of the funds. Any return of money that was not declared can only be made after the person has paid the corresponding fine and has made the required declaration.

Failure to make a declaration in an amount less than the equivalent of USD 30 000 is sanctioned by a fine in accordance with Articles 184, Sections VIII, XV and XVI and 185, section VII of the Customs Law. When the undeclared amount exceeds USD 30 000, the offender is handed over to the PGR to be charged for smuggling. In this regard, the PGR has authority to conduct the necessary investigations in connection with the origin and use of the cash or negotiable instruments that were not declared. Article 105 of the Federal Tax Code also imposes penalties for smuggling in connection with failure to declare cash and monetary instruments in excess of the equivalent of USD 30 000. It states that the same penalties imposed on the felony of smuggling will be imposed on any person who fails to declare to Customs, at the point of entry to or exit from the country, that he or she is carrying amounts in cash, national or foreign checks, payment orders, or any other receivable instrument or any combination thereof in excess of the equivalent of USD 30 000 in the relevant currency or currencies, and such a person will be penalised with imprisonment from three months to six years. If a competent authority renders a convicting sentence with respect to the perpetration of the felony referred to in this paragraph, the excess of the abovementioned threshold amount will become property of the federal tax authorities, except if the felon evidences the lawful origin of such resources.

The PGR, in accordance with its attributions, is responsible of requesting and obtaining additional information from the person who failed to make the required declaration. Customs is not authorised to investigate suspected ML and/or TF. It has, however, implemented measures to prevent, inhibit, detect, and sanction all activities related to the smuggling of currency. It is the PGR that investigates ML or TF.

Criterion 32.6 — All customs declaration forms filled out by individuals and companies are sent to the FIU for intelligence analysis; this information is captured by the FIU and included in its database. Moreover, the FIU has remote access to the Customs' database with respect to declarations of any amounts greater than the equivalent of USD 10 000 for the period 2006–2016.

Criterion 32.7 — Pursuant to Article 3, Paragraph 2 of the Customs Law, federal and local public officers and employees, within the scope of their respective competence, must assist Customs authorities in the performance of their duties when such authorities require it, and they are bound to report the facts of which they are aware regarding presumable breaches to the said law, as well as to hand over the merchandise that is the subject matter thereof if it is in their power. In addition, Article 19, section IV of the Internal Regulations of the SAT allows Customs to maintain constant communication with other administrative authorities of the SAT, the Ministry of Finance and Public Credit, the Public Federal Administration, and other federal entities in accordance with Customs legislation. This coordination is focused on putting in place security measures at airports, maritime customs, other ports of entry, and border areas, including postal services.

In particular, the respective activities/contributions include immigration (control of the entry and exit of foreigners), security (provision of support to Customs authorities when they require it and authorization to conduct surveillance and inspection activities outside of the Customs zone), FIU (provision of information on individuals or corporate entities that enter or exit Mexican territory), and Customs (control of the entry and exit of merchandise).

Criterion 32.8 — Pursuant to Article 19, Section LX of the Internal Regulations of the SAT, Customs has the power to "order and carry out preventive attachment or seizure of goods and merchandise when there is danger that the obligated party may flee or that a sale or concealment or hiding of assets or any other manoeuvre tending to evade compliance with fiscal obligations may be carried out, as well as of the cash amounts or national or foreign checks, money orders or any other receivable instrument or combination thereof, in excess of the amounts indicated under the legal provisions, when such amounts are not declared to the customs authorities upon entering or exiting national territory, in accordance with customs legislation, and to release the attached assets as may be appropriate." In case there is a suspicion of activities related to ML or TF, the corresponding judicial authorities (PGR) will be informed and they will proceed to conduct the necessary investigations to determine the lawful origin of the assets. This would not explicitly apply to false declarations as it is not an offence to make a false declaration.

Criterion 32.9 — The ability of Customs to provide assistance and cooperation in customs-related matters is provided by Article 3, Paragraph 3 of the Customs Law, which states that Customs authorities shall exercise their powers in a coordinated manner and in collaboration with the authorities of the Federal Public Administration, the states and municipalities, and the tax and customs authorities of other countries in accordance with the applicable international treaties of which Mexico is party, where appropriate, by exchanging information through the electronic centres or systems that are available so that the authorities may exercise their attributions, keeping the information confidential in accordance with the applicable legal provisions. In addition, Article 19, Section III of the Internal Regulations of the SAT allows Customs to maintain communication and collaboration with customs, tax, and foreign trade authorities of other countries, as well as to assist other public officials of the SAT in their tasks with said authorities regarding matters of entry and exit of merchandise within the national territory. Mexico has adopted several multilateral agreements of the World Trade Organization and the World Customs Organization. In addition, it has signed several international treaties and assistance agreements with foreign Customs services.

The Customs authorities of other countries with which Mexico has signed into a treaty or agreement can request from Customs the information they require on the cases in which the transportation of foreign currency has been declared, as well as information relative to failures to declare amounts in excess of the equivalent of USD 10 000 under the terms provided in the agreements. However, since no statistics on the number of information requests made and received by Customs were provided, it is difficult to verify the effectiveness of the international cooperation measures. The authorities did provide an unsigned copy of a Bilateral Strategic Plan dated August 13, 2007, for bilateral cooperation between Customs and their U.S. Customs and immigration counterparts. This plan includes elements for cooperation in several areas, including cash smuggling and organised crime.

It was ascertained that the priorities addressed by Customs in terms of international cooperation have been those which aim at strengthening the integrity of Customs personnel; the automation of all Customs dispatch processes; coordination of daily operations and infrastructure projects in the common border to promote the expansion of the exclusive FAST/Express lanes programs;

strengthening the actions relative to law enforcement to combat smuggling, Customs fraud, and related felonies jointly and more efficiently; increasing cooperation on security matters, especially in the case of merchandise cargoes that, due to their nature, require special controls; and establishing programmes to resume commercial/Customs activities in cases of emergencies or disasters. In this context, there is no specific strategy to address TF issues.

Criterion 32.10 — Customs is responsible for preserving and safeguarding the information of the abovementioned declarations for amounts exceeding the USD 10 000 threshold. Customs is also able to share such information with the FIU and other competent authorities. The information on the amounts that exceed USD 10 000 is processed by Customs officers in the Currency Declaration Processing System (SICADED), which may only be accessed by persons authorised to do so by the IT department (after registration and provision of justification), which is also in charge of implementing control measures to avoid unauthorised information disclosure. SICADED has been integrated to the FIU's database, which the personnel of the PGR can access on the basis of the Memorandum of Understanding signed by both agencies. The measures do not constitute a restriction for trade payments between countries for goods and services or the freedom of capital movements, in any way.

Criterion 32.11 — As mentioned previously, if a person enters the country without declaring that he/she is carrying any amount exceeding the USD 10 000 equivalency threshold but less than USD 30 000 (involving cash, national or foreign checks, payment orders, or any other receivable instrument or any combination thereof), the Customs authority will prepare a detailed record, pursuant to Articles 46 and 152 of the Customs Law and will ascertain the fine to be imposed for the offence. This fine can range from 20 percent to 40 percent of the amount that exceeds the USD 10 000 threshold. The application of the sanctions (General Rule on Foreign Commerce number 3.7.17, pursuant to Articles 46 and 152 of the Customs Law) does not exempt the offender from the obligation to complete the declaration form, which includes the obligation to declare the origin of the funds. This provision also applies to individuals and entities that fail to declare such amounts for securities custody or transportation companies and courier companies (Articles 184 and 185 of the Customs Law).

If the offender pays the fine, the money will be returned to such violator and no further enforcement action will be taken. Failure to pay the fine would result in the undeclared excess (over the threshold) being preventively seized (embargo precautorio) on the basis of Articles 144, Section XXX of the Customs Law, and 41, Section II of the Federal Tax Code.

If the undeclared amount exceeds USD 30 000, it would be treated as a smuggling offence in terms of Article 105 of the Federal Tax Code. In this case, the Customs authority would hand it over to the PGR which is responsible for investigating the lawful origin thereof. This conduct can be penalised with imprisonment from three months to six years. If the offender is found guilty, the seized money is handed over to the Federal Tax Authorities, unless the offender can show evidence of its lawful origin.

Weighting and Conclusion

It is not an offence to make a false declaration, there is no clear procedure by the Customs to deal with cross-border transportation of funds related to TF. The Customs does not have the power to request information on the origin and the intended use of cash and BNIs.

Mexico is partially compliant with Recommendation 32.

Recommendation 33—Statistics

Criterion 33.1 — The AML/CFT system is supported by statistics gathered and maintained in the case management systems set up by each key sector (namely the FIU, CJF, and the PGR). The supervisory authorities maintain a reasonable range of statistics relating to, for example, the number of inspections undertaken, the deficiencies identified, and the remedial measures or sanctions applied.

a) FIU maintains comprehensive statistics relating to STRs received and disseminated (including data on the type of offences and agencies receiving the STRs), as well as statistics on the outcome of the disseminated STRs (including ML/TF investigations, prosecutions, convictions, and ML/TF seizures deriving from the STRs).

b) Mexico collects statistics with regards to ML/TF investigations, prosecutions, and convictions. Mexican authorities provided information on the number of criminal investigations and prosecutions, and the number of convictions. National statistics on ML investigations, prosecutions, convicted persons, and sanctions are available annually and can be disaggregated to show relevant underlying predicate crimes. However, these are not available at a state level. The PGR has provided information on the number of preliminary investigations and prosecutions for the main predicate offences between 2012 and 2016. However, the information is incomplete, particularly so far as drug trafficking and organised crime are concerned. The CFJ provided the number of convictions for these offences, including detailed information on the sentences handed down in ML cases.

c) The PGR has an Institutional Statistical Information System, which includes information on the initiated preliminary investigations determined by the type of predicate offence, as well as prosecutions determined by the type of ORPI offence. On the other hand, the Sistema Integral de Seguimiento de Expedientes (SISE), which is a system operated only by the CJF, allows the consultation of all records relating to the number of convictions. The lack of consistency between the statistics provided by the PGR and the CFJ makes it difficult to assess the effectiveness of the investigations and prosecutions system and, in particular, to address the challenges posed by the implementation of a new criminal procedural system. [The Federal Judiciary Council can only exchange statistical information that can be generated under SISE and actions that do not imply compromising the autonomy and independence of the jurisdictional organs.]

d) Mexico has statistics on the amounts and property seized and confiscated; however, the statistics are inconsistent between institutions (e.g., PGR and judiciary). In addition, the material provided by the authorities is incomplete (e.g., no information on amounts or property confiscated or forfeited at subnational level). While statistics were available, Mexico had difficulty in providing in a timely manner the total amounts of seizures and confiscations with a breakdown by predicate offences.

e) Mexico maintains statistics on MLA, both active and passive, by countries. However, the lack of a case-management system enabling both incoming and outgoing requests to be processed and monitored regularly poses significant difficulties for the system as a whole to produce accurate statistics. On extradition, Mexico maintains comprehensive statistics, both on active and passive, with information on the country that submits the extradition request and the country that receives the request from Mexico, with a focus on the bilateral relationship with the U.S.

Weighting and Conclusion

Mexico does not ensure consistency of statistics between institutions. ML investigations, prosecutions, convicted persons, and sanctions are available at a federal level but not at a state level. The country does not collect information on amounts or property confiscated or forfeited at subnational level and in relation to main predicate offences. Country does not have a case-management system that enables the authorities to process requests and monitor them regularly.

Mexico is partially compliant with R.33.

Recommendation 34—Guidance and Feedback

In its Third Round MER, Mexico was rated partially compliant for former R.25. The main deficiencies identified included the absence of guidelines for the financial sector on the risks within the Mexican market, the absence of any overall guidance to the DNFBP sectors, and insufficient feedback by the FIU in relation to typologies and the quality of suspicious transaction reporting.

Criterion 34.1—

Supervisory guidance—All the supervisory authorities have the legal authority to issue guidance to supervised entities. The CNBV has implemented various measures to assist FIs understand their obligations and the consequences of not complying with them. The CNBV has created two sections on its website that focus specifically on AML/CFT: the first provides a range of information relating to compliance with AML/CFT obligations; and the second contains FAQs, notifications, video tutorials, general information on AML/CFT "culture," and a mailbox through which institutions may pose specific questions. In addition, since 2012, bi-monthly awareness-raising meetings have been held with money remitters, exchange centres, and unregulated multi-purpose finance companies. The CNBV has also instituted a "Get to Know Your Entity" programme, designed to allow the supervisors to obtain a better understanding of the business models offered by FIs to their clients so that the supervisors may provide recommendations (outside the normal regulatory framework) to strengthen institutions' systems and controls and to better mitigate the risks. This programme is being rolled out progressively, starting with the banks.

The CNSF and CONSAR have coordinated with the FIU to produce guidance on the filing of STRs and CTRs by the insurance industry. In addition, the CNSF has participated in various workshops to assist the insurance industry improve their understanding of the AML/CFT regulations and the STR requirements. Neither the CNSF nor the CONSAR has published any general guidance on the implementation of AML/CFT preventive measures.

The SAT has the power to issue guidance to the sectors that it supervises for AML/CFT purposes (RISAT, Art. 47), but it has not developed any relevant material apart from that produced by the FIU and disseminated through the Centralised Web Channel.

FIU guidance and feedback—The FIU has published a number of best practice documents and guides in recent years. These include information on the suspicious transaction reporting obligations and the format of such reports; guides on country risk, virtual currencies, and correspondent banking; and typologies on the abuse of financial and corporate structures for ML/TF purposes. The FIU distributed an edited version of the NRA to all reporting entities in September/October 2016.

Weighting and Conclusion

The CNBV has undertaken extensive outreach, but the CNSF, the CONSAR, and the SAT provide very little direct guidance, being largely dependent on outreach provided by the FIU.

Mexico is largely compliant with R.34.

Recommendation 35—Sanctions

In its Third Round MER, Mexico was rated partially compliant with former R.17, as the sanctions were not considered to be proportionate and dissuasive and there was insufficient use of non-monetary sanctions.

Criterion 35.1 — Article 52 of the LFPIORPI provides that the relevant financial sector supervisory authorities shall apply sanctions for non-compliance with the preventive measures, based on the powers granted them in each of the regulatory laws governing. Under these laws, the supervisory authorities have varying powers to impose remedial measures and sanctions for breaches of AML/CFT obligations, although administrative fines can be applied to all types of supervised institutions. The CNBV's own governing legislation (LCNBV, Art. 12) gives it general powers to admonish, suspend, remove, and bar people in key positions in FIs; to intervene managerially where breaches of laws occur; and to apply administrative sanctions. The sector-specific laws further define these powers. With respect to credit institutions, the CNBV may require the removal of management and can impose administrative fines on both the institution and the management (LIC, Art. 108). Similar provisions in relation to administrative fines exist within the securities legislation (LMV, Art. 392). The CNBV has the power to revoke a banking license for a number of reasons (LIC, Art. 28), but none of these relate to a failure to comply with AML/CFT requirements. With respect to brokerage firms, the CNBV may revoke a license for repeated or serious breaches of legal or administrative obligations (LMV, Art. 153).

The legislation governing the insurance sector gives the CNSF a broad spectrum of powers to require institutions to undertake remedial measures, to remove management, to impose financial sanctions, and, ultimately, to revoke an institution's authorisation (e.g., LISF, Arts. 320, 325 332, 333, and 369). With respect to money remitters and exchange centres, the CNBV has the powers to impose administrative fines (on both the institution and individuals), to remove management, to suspend or close their operations, and, ultimately, to revoke the registration for breaches of the provisions of their governing legislation (LGOAAC, Arts. 64, 74, 81–D, and 95 bis of).

With respect to the DNFBP sectors and the issuers of travellers cheques, credit cards, and stored-value cards, and the providers of safe-custody services, the LFPIORPI (Articles 53 and 54) provides a range of administrative fines for breaches of specific requirements under the law. These are administered by the Ministry of Finance rather than the supervisor, SAT. The law also gives the ministry the power to request the appropriate authorities to revoke the license of a gaming/lottery business and to cancel the right of individuals to carry on certain professions (public commercial attestor, notary public, customs agent, attorney-in-fact).

The primary focus of the sanctions regime for AML/CFT failings within the legislation is on financial penalties, although broader measures, which may be used in conjunction with fines, are made available to supervisors in most cases. These penalties are listed as minimum and maximum administrative fines for specific breaches of the individual legal requirements. They are usually characterised in terms of either a proportion of the value of the act that brought about the breach, or

a multiple of the daily minimum wage in force in the Federal District at the time (see Annex for a table itemising the administrative fines that are available for specific breaches of the AML/CFT legislation). Both the CNBV and the CNSF have developed internal guidelines on how administrative fines should be calculated within the ranges laid down in the legislation. These guide the supervisors to take into account, among other matters, the exact nature and scale of the breach of the law, the economic situation of the offender, the institution's history of compliance, and any mitigating factors presented by the institution. Overall, the maximum financial penalties available to the regulators do not appear to be proportionate and dissuasive for all types of institutions and for different types of breaches, when applied individually. For example, for credit institutions, securities businesses, and insurance companies, the maximum fine possible for major CDD failures is approximately USD 383 000. A similar maximum penalty exists for institutions that deliberately supply false or misleading information to the regulators in order to conceal the true state of the institution.

Criterion 35.2 — The various laws governing the financial sector and the DNFBPs provide for sanctions to be applied to both the institution or business and the advisors, directors, employees, agents, and representatives of the institution or business.

Weighting and Conclusion

Generally, the three primary supervisors have powers to apply a broad range of sanctions, but the maximum financial penalties available are not proportionate and dissuasive, particularly for larger institutions.

Mexico is largely compliant with R.35.

Recommendation 36—International Instruments

In the Third Round MER of 2008, Mexico was rated as largely compliant for R.36 (formerly R.35 and SR I), because it had not fully implemented the Vienna, Palermo, and TF Conventions. Several measures and amendments were adopted and implemented thereafter, which led to the 7th Follow-up Report to conclude in 2014 that the deficiencies under R.35 (new R.36) had been addressed.

Criterion 36.1 — Mexico ratified the Vienna Convention (on April 11, 1990), the TF Convention (on January 20, 2003), the Palermo Convention (on March 4, 2003), and the Merida Convention (on July 20, 2004).

Criterion 36.2 — Although Articles 400 Bis and 400 Bis 1 CPF criminalise ML in line with the Vienna, Palermo, and Merida Conventions, and criminal liability for legal persons is established in Article 11 Bis CPF, it appears that TF is not included in the list of criminal offences for which a legal person may be held liable (Article 5 of the TF Convention; see criterion 5.7).[111] In addition, provision is not made for controlled delivery in line with Article 20 of the Palermo Convention and Article 7 of the Vienna Convention (see criterion 31.2).

Weighting and Conclusion

The deficiencies identified in R.5 and R.31 have a negative impact on this rating (criminal liability for legal persons is not enshrined in the CPF and no provision is made for controlled deliveries).

Mexico is largely compliant with R.36.

[111] See R.5 for more information.

Recommendation 37—Mutual Legal Assistance

In the Third Round MER of 2008, Mexico was rated as largely compliant for former R.36 and partially compliant for SR V. In relation to former R.36, the Third Round MER found that the deficiencies in the ML/TF offences might affect Mexico's ability to provide MLA. As regards SR V, the deficiencies in the TF offence described under SR II were considered to affect Mexico's ability to provide MLA, while the deficiencies in the process for the freezing of terrorist assets were considered to affect Mexico's capacity to freeze, seize, and confiscate terrorist assets at the request of another country. The 7th Follow-up Report adopted in 2014 found that the deficiencies under SR V (new R.37) had been addressed so as to render the rating at minimum largely compliant.

Criterion 37.1 — Mexico has established a legal framework enabling competent authorities to rapidly provide a range of MLA. This system is essentially based on Articles 433 to 444 of the CNPP. One of the fundamental principles is that foreign MLA requests must be implemented as quickly as possible and with the utmost diligence. In accordance with Mexico's international commitments, Article 434 of the CNPP provides that the Mexican authorities must provide the maximum level of cooperation possible in the investigation and prosecution of offences. The types of MLA which can be provided are set out in Article 439 of the CNPP and include the gathering of evidence, the exchange of information, and the implementation of preventative measures. Article 439(XI) of the CNPP is a catch-all provision ensuring that any other type of MLA which is not specifically included in that article may be given, provided that it is not prohibited under Mexican law. In addition, it is not clear whether assistance is refused (rather than postponed) if the implementation of the MLA request might harm or hamper an ongoing investigation in Mexico.

Criterion 37.2 — The PGR is the central authority for processing MLA (Article 437 of the CNPP). MLA requests may be sent to the central authority or via diplomatic channels. Article 52, sections VI and VII of the RLOPGR establishes the powers of the DGPI in MLA matters. The DGPI is the unit within the PGR with competence for processing MLA requests. The Directorate of International Legal Assistance, which is part of the DGPI, is responsible for the implementation and follow-up of these requests and is staffed by one director, 18 lawyers, and 15 administrative assistants. Although the DGPI applies informal criteria for the timely prioritisation and execution of requests and for monitoring the progress of requests, these criteria are not enshrined in any formal, organisation-wide document such as the manual for international cooperation matters.

Criterion 37.3 — There are seven discretional grounds for refusing to provide MLA and one discretional ground for postponing such provision (Article 440 of the CNPP). The grounds for refusal include requests of a political or military nature, requests relating to offences punishable by death, and requests involving events on which a court has already ruled. The ground for postponement may be invoked where execution of the request may compromise or obstruct an ongoing investigation. None of these grounds appear to be unreasonable or unduly restrictive.

Criterion 37.4 — Since the discretional grounds for refusing to provide MLA set out in Article 440 of the CNPP do not include where the request (a) relates to fiscal matters, or (b) gives rise to issues of secrecy or confidentiality, it is to be assumed that MLA cannot be refused on those grounds. Mexico has signed a number of bi-lateral treaties which provide that banking or tax secrecy may not be relied upon as grounds to refuse MLA.

Criterion 37.5 — Under Article 444 CNPP, the central authority and any other authority involved in the execution of the MLA request is bound to maintain the content of the request and documents on which it is based confidential.

Criterion 37.6 — Dual criminality only applies where the MLA request seeks the execution of measures to secure property, attachments, search warrants, confiscation, or seizure (Article 436(III) of the CNPP). These are all coercive measures and dual criminality is not required in respect of other types of MLA request.

Criterion 37.7 — Dual criminality is only a requirement for MLA requests seeking the execution of coercive measures (Article 436(III) of the CNPP). The CNPP does not define what is meant by "dual criminality" (identidad de normas) but the explanations given by the Mexican authorities suggest that it only requires the elements of the conduct to be the same. The category attaching to the offence or the terminology used to denominate it is irrelevant.

Criterion 37.8 — As indicated in criterion 37.1, the Mexican authorities may execute a wide range of MLA requests, including those seeking the search of persons or premises, the taking of witness statements, and the gathering of evidence. The catch-all provision enshrined in Article 439(XI) of the CNPP ensures that any other type of MLA which is not specifically included in that article may be given, provided that it is not prohibited under Mexican law. However, as regards special investigative techniques, it remains unclear whether Mexico could execute an MLA request seeking a controlled delivery because there is no statutory provision regulating this investigative technique at national level.

Weighting and Conclusion

There is no case management system for the timely implementation and follow-up of MLA requests or clear criteria for the prioritization of MLA requests.

Mexico is partially compliant with R.37.

Recommendation 38—Mutual Legal Assistance: Freezing and Confiscation

In the Third Round MER of 2008, Mexico was rated as partially compliant for R.38. The main deficiency identified was that Mexican law did not provide for the confiscation of property of equivalent value. In addition, the deficiencies in the TF offences might affect Mexico's ability to provide MLA. The deficiencies under SR II have since been addressed by the amendments to the criminalisation of terrorism and TF so as to bring Mexican law fully into line with Article 2 of the TF Convention.

Criterion 38.1 — There are procedures under Mexican law for replying to requests from foreign countries seeking the freezing (inmovilizacíon y aseguramiento de bienes) of property (Article 449 of the CNPP). Where the request seeks the confiscation of property, the requesting country must submit with the request a duly certified copy of the confiscation order, information on the evidence underpinning the confiscation order, and a statement that the judgment in which confiscation was ordered is final (Article 452 of the CNPP). Although Article 449 of the CNPP does not define "property," it is apparent from the CNPP and the LFED interpreted as a whole that this concept extends to laundered property from, proceeds from, instrumentalities used in, and instrumentalities intended for use in ML, predicate offences, or TF, as well as property of corresponding value. Despite

the fact that Article 449 of the CNPP requires MLA requests to specify the location of the property to be frozen, seized, or confiscated, this does not necessarily prevent the execution of a freezing request where the location is unknown. However, in such cases, the requesting country would have to make two requests, one asking the Mexican authorities to first identify the location of the property and another asking that the property be frozen, seized, or confiscated, leading to delays in the adoption of this measure. Furthermore, Article 449 of the CNPP does not impose a time limit for responding to requests to identify, freeze, seize, and confiscate, with the result that it cannot be determined whether action is taken expeditiously.

Criterion 38.2 — The Mexican authorities can implement MLA requests made on the basis of non-conviction-based confiscation proceedings and related provisional measures through the procedures established in the LFED. Articles 66 to 69 of the LFED provide that where the competent authority of a foreign government submits an MLA request seeking the recovery of property, the request must be handled by the PGR or another competent authority, depending on the circumstances. Based on that MLA request, the PGR will raise extinction of ownership proceedings before a court and will request one or more provisional measures available under the LFED.

Criterion 38.3 — As regards item (a) of this criterion, Mexico has signed a number of bilateral MLA treaties with, for example, Canada and the US, in order to take action to coordinate seizure and confiscation. As regards item (b), the SAE, the functions of which are governed by the LFAEBSP, has the power to manage, sell, or directly destroy transferred property; to appoint custodians, liquidators, auditors, or administrators in respect of such property; and to entrust third parties with the sale and destruction of such property. For these purposes, property includes property seized and confiscated in federal criminal proceedings (Article 1 of the LFAEBSP).

Criterion 38.4 — Under Article 69 of the LFED, where an MLA request for the recovery of property terminates in a judgment ordering the extinction of ownership, the property or proceeds of the sale thereof must be delivered, through the PGR and the Ministry of Foreign Affairs, to the competent foreign authority, unless there is an agreement on sharing assets. Mexico had signed a number of legal instruments which contain provisions for coordinating the sharing of confiscated property with countries such as Costa Rica and Colombia.

Weighting and Conclusion

The deficiencies identified in R.37 have a negative impact on this recommendation.

Mexico is partially compliant with R.38.

Recommendation 39—Extradition

In the Third Round MER of 2008, Mexico was rated as partially compliant for R.39. The main shortcoming identified was the deficiency in the ML/TF offences, and it was considered that this deficiency might impact on Mexico's ability to extradite. The recommendation was significantly modified in 2012.

Criterion 39.1 — The legal framework governing extradition in Mexico essentially comprises the International Extradition Act (LEI), bilateral extradition treaties, and multilateral agreements. Article 6 of the LEI provides that all intentional offences are extraditable, provided that they are punishable under Mexican criminal law and the requesting State by imprisonment of at least one year, thereby

covering both ML/TF offences. Various authorities participate in the extradition process, such as the Ministry of Foreign Affairs, the PGR (Extradition Directorate within the DGPI), and district judges. Article 52(I), (IV), (VI), and (VII) of the RLOPGR specifies the functions of the Extradition Directorate. This directorate is staffed by one director, 22 lawyers, and 14 administrative assistants. The deadlines for surrender appear to be reasonable (Articles 25 and 27–29 of the LEI). As regards case management[112] and processes for the timely execution of extradition requests, the Judicial Power of the Federation holds a record and index of extradition cases, while the Extradition Directorate within the DGPI maintains a database of incoming and pending requests. Requests are stated to be prioritised on a case-by-case basis. The Ministry of Foreign Affairs has issued guidelines governing the implementation of foreign requests for extradition. However, there does not therefore seem to be an established case management system as such beyond a mere list of requests, and there does not appear to be any clear protocol for the prioritisation of cases. There are no unreasonable or unduly restrictive conditions on extradition. The LEI contains a list of widely accepted mandatory grounds for refusal, such as where the requested person has already been tried or has already served the sentence for the crime in respect of which extradition is sought (Article 7).

Criterion 39.2 — Mexican citizens cannot be extradited, save in exceptional cases determined by the government (Article 14 of the LEI). Where a Mexican national is not extradited on grounds of nationality, the Ministry of Foreign Affairs will notify the PGR thereof so that court proceedings can be brought in Mexico, where appropriate (Article 32 of the LEI).

Criterion 39.3 — Dual criminality is a requirement for extradition in Mexico. The Mexican authorities only require the elements of the conduct to be the same; the category attaching to the offence or the terminology used to denominate it is irrelevant.

Criterion 39.4 — The LEI provides for a simplified extradition process where the requested party expressly consents to or does not object to the extradition (Article 28 of the LEI). Furthermore, Mexico has signed various extradition treaties which make provision for summary extradition proceedings.

Weighting and Conclusion

The main shortcomings identified are a lack of an established case management system and an absence of a clear protocol for the prioritisation of cases.

Mexico is largely compliant with R.39.

Recommendation 40—Other Forms of International Cooperation

In the Third Round MER of 2008, Mexico was rated compliant for R.40. The recommendation was significantly modified in 2012.

Criterion 40.1— The Mexican authorities are able to cooperate with foreign counterparts in the areas in which they have competence. The Ministry of Finance and Public Credit has the power to coordinate with domestic and foreign supervisory and public security authorities for the purpose of preventing and detecting ML-related acts or transactions (Article 6(III) of the LFPIORPI). The Ministry of Finance and Public Credit also has the power to exchange information with foreign

[112] The Mexican authorities have stated that the PGR is working on a file management system to improve case management (Sistema Justicia Net). No information was provided on the main features of this system or the time line for rolling it out.

authorities in accordance with international treaties or, in the absence of such treaties, in accordance with the principles of cooperation and reciprocity (Article 49 of the LFPIORPI). The PGR has the power to exchange information with foreign authorities and international bodies in matters concerning extradition, the repatriation of property, asset recovery, enforcement of criminal judgments, and other international matters through its dedicated international unit (Dirección General de Procedimientos Internacionales) (Article 52 of the Regulations of the Organic Law of the PGR (RLOPGR)). The responsibilities of the FIU include providing, requesting, and exchanging the information and documentation necessary to exercise its powers with the competent national and foreign authorities (Article 15(XII) of the Internal Regulation of the Ministry of Finance and Public Credit (RISHCP)).

Criterion 40.2 — The FIU has the authority to exchange information with foreign authorities, spontaneously or upon request, even in the absence of an agreement on the principle of reciprocity with its counterparts. The FIU can exchange the information necessary for the performance of its duties with its counterparts by responding to foreign requests for information. The FIU also has authority to enter into international legal instruments for the exchange of information, when required (Art. 15 of the RISHCP, sections VII, VIII, XII, XIX, and XXI, and Arts. 6, section III and 49 of the LFPIORPI).

(a) The PGR has a lawful basis for providing cooperation in the form of Article 5(VII) of the LOPGR, which provides that it is for the PGR to promote the conclusion of international treaties and interinstitutional agreements on matters relating to its duties and to monitor compliance in coordination with the Ministry of Foreign Affairs and other agencies of the Federal Public Administration.

(b) The PGR is authorised to participate in the negotiation and conclusion of international treaties through the Dirección General de Cooperación Internacional under Article 53 of the RLOPGR. Furthermore, the head of the Coordination of International Affairs and Attaché Offices of the PGR is empowered, inter alia, to establish coordination mechanisms between Mexican attaché and liaison offices, on the one hand, and the competent units of PGR, on the other, to assist it in the performance of its duties (Art. 46(VI) of the RLOPGR).

(c) The PGR has mechanisms and secure channels in place to facilitate the transmission and execution of requests in accordance with international treaties and bilateral and multilateral agreements or, in the absence of such treaties and agreements, in accordance with the principles of cooperation and reciprocity.

The FIU has been a member of the Egmont Group since 1998; hence, under the Charter and Principles for Information Exchange of the Egmont Group, it has the means to exchange information to assist in the investigations on ML/TF and other related crimes, with all the members of the group, through its Secure Web, under the principle of reciprocity and mutual trust. In addition, the FIU has signed 41MOUs with its counterparts from different countries to facilitate cooperation, when required (Andorra, Antilles, Argentina, Aruba, Australia, Bolivia, Brazil, Canada, Chile, China, Colombia, Republic of Korea, Ecuador, El Salvador, Spain, United States, Philippines, GAFILAT, Guatemala, Holland, Honduras, Indonesia, Bermuda Islands, Israel, Japan, Macedonia, Moldova, Mongolia, Nicaragua, Paraguay, Peru, Poland, Portugal, United Kingdom, Dominican Republic, Russia, San Marino, Serbia, Singapore, Sweden, Ukraine, and Venezuela) (Article 15, section XIX of the RISHCP).

(d) As indicated in criterion 37.2 in relation to MLA, the PGR has not set up processes for the timely prioritisation and execution of requests.

The FIU uses the Egmont Group Principles for Information Exchange as a base to respond to requests made by its foreign counterparts through the secure network of that group in a timely manner. Similarly, when a signed MOU exists with the requesting country, it is observed when responding to the request.

(e) As regards processes for safeguarding the information received, the Mexican authorities refer to international cooperation instruments, without specifying any in particular, as well as to the MOUs signed with foreign authorities containing confidentiality clauses. At national level, the Mexican authorities apply Article 444 of the CNPP in the area of MLA to general exchanges of information. That article provides that the central authority and any other authority involved in the execution of the MLA request is bound to maintain the content of the request and documents on which it is based confidential.

Criterion 40.3— The PGR has a lawful basis to negotiate and sign international agreements with foreign counterparts, as set out in Article 5(VII) of the LOPGR, which provides that it is for the PGR to promote the conclusion of international treaties and interinstitutional agreements on matters relating to its duties and to monitor compliance in coordination with the Ministry of Foreign Affairs and other agencies of the Federal Public Administration. The PGR is also authorised to participate in the negotiation and conclusion of international treaties through the Dirección General de Cooperación Internacional under Article 53 of the RLOPGR. The Mexican authorities also mention a number of international legal instruments signed with the U.S., Brazil, Italy, Trinidad and Tobago, and the Republic of Korea.

The FIU has a lawful basis to negotiate and sign international agreements with foreign counterparts, as set out in Article 15, section XIX of the RISHCP, which provides that it is for the FIU to participate in the negotiation of international treaties in matters within its competence, with the intervention corresponding to other institutions of the Federal Public Administration, and to execute the international legal instruments that do not require the Secretary's signature. The FIU has executed MOUs with 41 jurisdictions.

Criterion 40.4— There are no legal impediments preventing them from providing, in a timely manner, feedback to competent authorities from which they have received assistance on the use and usefulness of the information obtained. However, no specific mechanisms or processes were identified in that regard. The Egmont Principles are being implemented in relation to exchange of information with FIUs that are members of the group.

Criterion 40.5—

a) The Mexican authorities apply Article 440 of the CNPP in the area of MLA to general exchanges of information. That article sets out the discretional grounds for refusing to provide MLA, which do not include where the request relates to fiscal matters. Hence, it is to be assumed that the exchange of information cannot be refused on that ground.

b) The Mexican authorities apply Article 440 of the CNPP in the area of MLA to general exchanges of information. That article sets out the discretional grounds for refusing to provide MLA, which do not include where the request gives rise to issues of secrecy or confidentiality. Hence, it is to be assumed that the exchange of information cannot be refused on that ground.

c) The Mexican authorities maintain that information is exchanged in accordance with national law. Under Articles 106, 218, and 220 of the CNPP, information on investigations is confidential. Consequently, no information is exchanged where it forms part of ongoing proceedings or an ongoing investigation, independently of whether or not it might impede such proceedings or investigation. It is not clear how this sits alongside Article 440(VII) of the CNPP, which provides that the implementation of an MLA request may be postponed (but not refused) where execution might compromise or obstruct an ongoing investigation.

d) The Mexican authorities state that the different nature or functions of other authorities is not a legal impediment preventing them from providing information. No specific legal basis for this assertion was provided for consultation.

In the regulation that established the FIU, there is no legal impediment or condition to provide information to its foreign counterparts when the requests comply with the Egmont Principles of Information Exchange or, where appropriate, with the instruments that are entered into on the matter. Consistent with the Egmont Group Principles of Information Exchange and with the cooperation instruments that are signed, the assistance or the exchange of information may only be denied in cases in which it obstructs or hinders an ongoing investigation. The same type of an MOU is signed with FIUs that are not Egmont Group members.

Criterion 40.6— As regards processes for safeguarding the information exchanged, the Mexican authorities apply Article 444 of the CNPP in the area of MLA to general exchanges of information. That article provides that the central authority and any other authority involved in the execution of the MLA request is bound to keep the content of the request and documents on which it is based confidential. In addition, Mexico has signed a number of international legal instruments with foreign authorities, such as Cuba, Italy, Costa Rica, and Colombia, which contain confidentiality clauses.

As a national security body, the FIU must comply with the provisions established in the LSN with regards to the reservation and confidentiality of information obtained in the exercise of its powers (Arts. 10, 50, 51, 53, 54, 61, 63, and 64 of the LSN). Similarly, in terms of the General Law of Transparency and Access to Public Information, any information that could undermine the national security or public security shall be classified (Art. 113). The FIU utilises the information that it requests from its counterparts for intelligence purposes only, and, where applicable, it requests authorisation from its counterpart to disclose such information to any other competent national authority.

Criterion 40.7— In order to maintain appropriate confidentiality for any request for cooperation and the information exchanged, the Mexican authorities apply Articles 106 and 444 of the CNPP as well as the General Law on Transparency and Access to Public Information (LGTAIP). This law lays down principles and procedures to safeguard the right of access to information in the possession of any authority, entity, body, or organisation of the legislative, executive, and judicial branches, autonomous bodies, political parties, public trusts and funds, as well as any natural or legal person or labour union that receives and uses public resources or performs acts of authority of the federal government, the States or the federal district, and the municipalities. In particular, Article 113 of the LGTAIP provides that information delivered to Mexico which is expressly stated to be classified or confidential information by other subjects of international law will be treated as confidential, except in the case of serious human rights violations or crimes against humanity under international law.

Consistent with the Egmont Group Principles of Information Exchange and the cooperation instruments that are signed, the assistance or exchange of information may only be denied in cases

in which it obstructs or hinders an ongoing investigation. In such a case, the requesting party is informed of the situation (Art. 41 of the LFPIORPI).

Criterion 40.8— The Mexican authorities refer only to the FIU as the authority with competence to conduct inquiries on behalf of foreign counterparts and to exchange with them all information that would be obtainable by it, were such inquiries carried out domestically (Art. 15(XII) of the RISHCP). The PGR would not appear to be able to conduct such inquiries.

Exchange of Information between FIUs

Criterion 40.9— The FIU is authorised to provide international cooperation on the matters of its competence with regards information that, according to its competence, it may receive from a reporting entity Additionally, it has the powers to request additional information from other competent authorities in order to attain a wide range of information for the exercise of its powers, among which are the exchange of information and the provision of international cooperation (Arts. 15, section I, paragraph b), VIII, XII, and XIX of the RISCHP, 6th section III, and 49 of the LFPIORPI).

Criterion 40.10— The FIU is actively involved in the work of the Egmont Group and complies with its governing documents. By participating in this forum, the FIU seeks to contribute to the common objective of the agency of developing cooperation between counterpart authorities, not only in the area of sharing information but also on other issues, such as promoting training in the areas of its competence and the sharing of their experiences on different cases.

Criterion 40.11— The FIU has the power to exchange information with counterparts spontaneously or upon request, even in the absence of an agreement on the principle of reciprocity. The FIU can request information that is necessary for the performance of its duties from relevant domestic authorities to ensure that the response to foreign requests of information from its counterparts is as complete as possible, utilising a wide range of available information. The FIU also has authority to enter into international legal instruments for the exchange of information, when required (Art. 15 of RISHCP, sections, XII and XIX, and Arts. 6, section III and 49 of the LFPIORPI).

Exchange of Information between Financial Supervisors

Criterion 40.12— The SHCP, of which the CNBV, CNSF, and CONSAR are devolved bodies, has an overarching power to share information (with or without formal agreements) with "foreign authorities responsible for the identification, detection, supervision, prevention, investigation, or prosecution of offences equivalent to that of ML transactions" (Art. 49 of the LFPIORPI). There is no mention of TF in this article. The CNBV has the legal authority to enter into agreements with foreign organisations that perform regulatory and supervisory functions similar to those of the CNBV and to provide assistance to enable them to carry out their inspection and supervisory responsibilities (Arts. 4 XXIV and XXV of the LCNBV). The CNBV is required to provide such cooperation under an MoU, based on the principle of reciprocity (Art. 9 of the LCNBV). The CNSF has powers similar to those of the CNBV (Art. 366 XXXV of the LISF). The provisions relating to the CONSAR (Arts. 11–22 of the RICNSAR) are much less specific, giving the Commission the power simply to "collaborate" with international authorities in the pursuit of analyses and studies that promote financial stability of pension systems and to act as a consultative body in international forums. Similarly, the SAT also has the authority to "collaborate" with the fiscal, customs, and trade authorities of other countries and is designated as the competent authority for the implementation of agreements, treaties, and

conventions relating to customs and related exchanges of information (Arts. 19 III and LXXXIX of the RISAT). It is also empowered, more generally, to cooperate with tax, customs, and international trade authorities of other countries, but it is unclear as to whether any of these provisions would cover the SAT's responsibilities in relation to AML/CFT supervision.

Criterion 40.13— The CNBV has the authority (subject to the signing of an MOU) to provide foreign counterparts with any type of information they might request (Art. 9 of the LCNBV). This specifically includes information already in their possession, as well as information that can be obtained by using its supervisory powers or by liaising with other institutions or authorities. Identical provisions exist in relation to the CNSF (Art. 366 XXXVII of the LISF). The CONSAR only has a very general power to collaborate with other authorities, and there is no reference to the nature of any information that might be exchanged. With respect to the SAT, the legal authority to exchange information with foreign counterparts is also very general, and it is unclear the extent to which cooperation can be provided on AML/CFT issues (see criterion 40.12).

Criterion 40.14— As indicated under criterion 40.13, both the CNBV and the CNSF have broad powers (subject to the signing of an MOU) to exchange whatever information they might have in their possession or be able to obtain through the use of their regulatory and supervisory powers. This includes general, prudential, and AML/CFT-specific information. Since the respective provisions are very general, it is unclear to what extent the CONSAR and the SAT have the legal authority to cooperate with foreign counterparts, especially in relation to prudential and AML/CFT matters.

Criterion 40.15— The CNBV has the power both to conduct enquiries on behalf of foreign counterparts (Art. 9 of the LCNBV and Art. 66 of the RSCNBV) and to permit foreign counterparts to conduct inspections in Mexico of institutions for which they have a shared supervisory responsibility (Art. 34 VI of the RICNBV). The CNSF has the authority to obtain information for foreign counterparts through the conduct of enquiries (Art. 366 XXXVII of the LISF), but there are no relevant provisions that permit foreign counterparts to conduct enquiries themselves directly. As indicated above, it is unclear to what extent the CONSAR and the SAT can assist to facilitate enquiries relating to AML/CFT.

Criterion 40.16— There are no legal provisions that govern the way in which Mexico may use information that it has obtained from foreign counterparts. However, both the CNBV and the CNSF operate under MOUs entered into with foreign counterparts, which contain reciprocal provisions limiting the use of information to the purposes for which it was requested, unless prior approval is sought from the requested supervisor. There are no relevant legal provisions or administrative procedures in relation to CONSAR and SAT.

Exchange of Information between Law Enforcement Agencies

Criterion 40.17— The Mexican authorities refer to 38 different legal instruments, including agreements, cooperation conventions, and MOUs, between the PGR and a number of foreign countries. These instruments were not available for consultation. Furthermore, no information was provided as to whether LEAs are able to exchange domestically available information with foreign counterparts for intelligence or investigative purposes, as required under this criterion. The Mexican Interpol National Central Bureau exchanged information on regular basis with foreign counterparts during 2015–2016.

Criterion 40.18— As indicated in criterion 37.8, the Mexican authorities may execute a wide range of requests, including those seeking the search of persons or premises, the taking of witness statements, and the gathering of evidence. The catch-all provision enshrined in Article 439(XI) of the CNPP ensures that any other type of request which is not specifically included in that article may be provided, provided that it is not prohibited under Mexican law. However, as regards special investigative techniques, it remains unclear whether Mexico could execute a request seeking a controlled delivery because there is no statutory provision regulating this investigative technique at national level.

Criterion 40.19— The Mexican authorities refer to the Vienna, Palermo, and Merida Conventions to demonstrate that joint investigation teams can be formed in order to conduct cooperative investigations. However, there is no domestic statutory legal basis for such action.

Exchange of Information between Non-Counterparts

Criterion 40.20— As indicated above (criterion 40.6), it is possible under international instruments negotiated through the PGR (e.g., with Cuba, Italy, Colombia, or Costa Rica) to exchange information indirectly with third parties, provided that the information provider gives prior written consent and that the exchange is made in accordance with the provider's national legislation.

The FIU is also sharing information with non-counterparts (e.g., LEAs) outside Mexico.

Weighting and Conclusion

The main shortcomings include the lack of statutory provisions regulating controlled deliveries and joint investigation teams at the national level, the fact that no international instruments governing the exchange of information were provided for consultation, as well as the fact that no information is exchanged where it forms part of ongoing proceedings or an ongoing investigation, independently of whether or not it might impede such proceedings or investigation.

Mexico is largely compliant with R.40.

Summary of Technical Compliance – Key Deficiencies

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) underlying the rating**
1. Assessing risks & applying a risk-based approach	LC	• Mexico does not provide a comprehensive assessment of laundering of proceeds of corruption. • The NRA does not present a grounded view of risks associated with the misuse of the legal persons and arrangements. • The requirements for FIs and DNFBPs to assess ML/TF risks and apply enhanced measures, including where higher risks are identified by the authorities are deficient. • There is no prohibition of simplified AML/CFT measures where there is a suspicion of ML/TF.
2. National cooperation and coordination	LC	• Mexico finalized its NRA in June 2016 and has carried out some high-level actions to mitigate the risks identified. However, authorities have explained they are further developing a national strategy that will incorporate additional measures to address all findings of the NRA and establish clearer priorities.
3. Money laundering offence	C	The Recommendation is fully observed.
4. Confiscation and provisional measures	LC	• No specific provisions in the law to prevent or to void certain legal actions that prejudice the country's ability to freeze, seize, or recover property that is subject to confiscation.
5. Terrorist financing offence	LC	• The CPF does not include TF among the offences for which legal persons may be held criminally liable.
6. Targeted financial sanctions related to terrorism & TF	C	The Recommendation is fully observed.
7. Targeted financial sanctions related to proliferation	C	The Recommendation is fully observed.
8. Non-profit organisations	PC	• Authorities have not yet conducted a review of the current laws and regulations pertaining to the subset of NPOs identified in the revised NRA as high-risk. • There has been limited outreach to the NPO sector on its unique vulnerabilities for TF and no outreach to the donor community. • Authorities are not yet working with NPOs to develop and refine practices to address TF risks and vulnerabilities. • Authorities have not yet engaged in any outreach with the NPOs to encourage them to conduct transactions via regulated financial channels. • Authorities have not yet established a plan to improve effective supervision or monitor the NPO sector since the revised NRA. • All NPOs have certain requirements based on their classification as DNFBPs, but no special requirements currently exist for NPOs. • Since the risk-based requirements have not yet been defined, the correspondent sanctions have not been defined either.
9. Financial institution secrecy laws	C	The Recommendation is fully observed.
10. Customer due diligence	PC	• Lack of comprehensive requirements to identify beneficial owners and verify their identities, including those of legal persons and trusts. • For banks and other sectors under CNBV's purview, the requirement to understand the corporate structure of legal persons only applies to

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) underlying the rating**
		customers who are legal persons classified as high-risk. • Lack of comprehensive requirements to apply CDD measures to existing customers. • Lack of comprehensive requirements to keep the CDD information up-to-date. • The requirements to identify and verify occasional customers transacting in national currency only apply in limited scenarios. • No prohibition of simplified measures when there is suspicion of ML/TF.
11. Record keeping	LC	• The requirements are not sufficient to ensure reconstruction of transactions other than those covered in the AML regulations.
12. Politically exposed persons	PC	• Lack of requirements to determine whether the beneficial owner is a PEP (foreign or domestic). • For the insurance sector, lack of requirement to determine whether the beneficiary of life insurance is a PEP and to apply required due diligence. • Senior military officers, executives of state-owned corporations, or officials at the municipal level are not considered to be domestic PEPs.
13. Correspondent banking	LC	• Lack of requirements governing customers of respondents having direct access to the correspondent institution's accounts.
14. Money or value transfer services	LC	• Lack of comprehensive requirements for MVTS agents to be licensed or registered or for MVTS operators to maintain a current list of agents accessible to the competent authorities.
15. New technologies	PC	• Lack of requirements for all FIs to assess ML/TF risks prior to the launch or use of new products, business practices, or delivery mechanisms or to manage such risks.
16. Wire transfers	PC	• Lack of requirements for ordering institutions to include beneficiary information in the transfer or to maintain such information. • Lack of requirements for intermediary or beneficiary institutions to have procedures to determine when to exert, reject, or suspend a wire transfer lacking the required originator or beneficiary information. • Lack of requirement to identity occasional customers who transfer Mexican pesos.
17. Reliance on third parties	PC	• Lack of requirements for all FIs to report on the countries a third party may be based. • Lack of comprehensive requirements for relying FI to ensure the third party has measures for, is regulated, and supervised for compliance with R.10 and 11.
18. Internal controls and foreign branches and subsidiaries	PC	• Lack of requirements for financial groups to implement group-wide AML/CFT program.
19. Higher-risk countries	LC	• The Mexican authorities' ability to apply counter-measures proportionate to the risks beyond systematic reporting cannot be established.
20. Reporting of suspicious transaction	PC	• For most FIs, the timeframe for "unusual transactions" does not satisfy the requirement to report promptly while the 24-hour reporting obligation requires a higher certainty than suspicion. • For OFSPs, the reporting obligations are not set out in the law, do not cover TF or attempted transactions, and are subject to a threshold.

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) underlying the rating**
21. Tipping-off and confidentiality	LC	• For most FIs, the protection of their directors, officers, and employees from any liability that may arise from violation of confidentiality for complying with AML/CFT requirements is not set out in law.
22. DNFBPs: Customer due diligence	PC	• There are no requirements to perform CDD in cases when there is a suspicion of ML/TF or when there are doubts about the veracity or adequacy of previously obtained data, except when there are doubts whether the customer acts on behalf of another person. • In case of establishing business relationship, there is no requirement to understand its purpose and intended nature. • There is no requirement to scrutinise transactions in order to ensure that they are in line with the customer's profile. • There is no requirement to understand the ownership and control structure of a customer which is a legal person or a legal arrangement. • There is no requirement to obtain information on the persons having a senior management position. • There is no requirement to obtain information on the address of the trustee of a legal arrangement. • There are no specific requirements to identify the settlor, the protector, the beneficiaries or class of beneficiaries in case of legal arrangements. • There are no requirements to perform enhanced CDD in higher-risk situations. • There is no requirement to consider making an STR if a customer refuses to provide CDD information. • There are no provisions that would permit DNFBPs not to pursue CDD process in case they reasonably believe this will tip off the customer. • There is no explicit requirement to keep records of transactions. • There are no requirements to keep business correspondence or results of any analysis undertaken. • There is no explicit requirement for transaction records to be sufficient to permit reconstruction of individual transactions, except for casinos. • There are no requirements for DNFBPs in relation to PEPs. • There are no requirements for DNFBPs to identify and assess the ML/TF risks posed by new products or technologies. • Requirements with regard to third-party reliance fall short of the standard.
23. DNFBPs: Other measures	NC	• The obligation for reporting falls short of the standard, since (i) the obligation is not set out in law; (ii) there is a monetary threshold (not a deficiency with regard to dealers in precious metal and stones); (iii) there is no obligation to report transactions that are related to TF; and (iv) the reporting obligation is based on "a fact or evidence" which goes beyond suspicion. • There are no requirements to have screening procedures for hiring employees, to have ongoing employee training programme, or to establish an independent audit function system. • There is no requirement to implement group-wide programmes against ML/TF for those DNFBPs that are part of a business group. • There are no requirements for foreign branches of DNFBPs to ensure compliance with AML/CFT requirements of the home country. • There are no requirements concerning high-risk countries.
24. Transparency and beneficial	PC	• The NRA does not give a coherent view with regard to the risks of misuse of legal persons and arrangements and does not represent the

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) underlying the rating**
ownership of legal persons		risk perception by all competent authorities. • There are no requirements to record the name, proof of incorporation, address, basic regulating powers, and list of directors for associations, unions, and professional associations. • Basic information on certain non-commercial legal persons (namely, unions, professional associations, and others similar organisations) is not publicly available. • There is no requirement to maintain the basic information for unions, professional associations, and other associations. • There are no obligations for cooperative companies, unions, associations, and foreign legal persons to maintain a register of their members/shareholders. • There is no explicit requirement to ensure that the basic information is accurate and updated on timely basis. • There is no general obligation for all companies to obtain and hold BO information and keep it up-to-date. • There are no specific provisions requiring companies to co-operate with competent authorities in determining the beneficial owner. • There are no requirements to maintain the information and records for at least five years after the date on which the company is dissolved or otherwise ceases to exist, except for corporations and companies. • In cases when the BO information is available, timely access to it cannot be ensured. • There are no specific sanctions foreseen for failure to comply with the requirements to maintain and update a register of shareholders or members. • There are no specific provisions concerning the exchange of information on shareholders for the purposes of international cooperation. • Mexico does not monitor the quality of assistance it receives from other countries in response to requests for basic and BO information or requests for assistance in locating beneficial owners residing abroad.
25. Transparency and beneficial ownership of legal arrangements	LC	• The deficiencies in the CDD and record-keeping requirements for FIs (see R.10 and 11) have negative impact on compliance also when FIs act as trustees in legal arrangements. • Mexican competent authorities can facilitate access to the registries of legal arrangements (RFC and RPPC) to foreign competent authorities only for tax purposes. • Sanctions for failure to grant to competent authorities timely access to information regarding trusts do not appear to be proportionate and dissuasive.
26. Regulation and supervision of financial institutions	LC	• No powers to vet owners and managers of issuers or travellers cheques, credit cards and stored-value cards, and providers of safe custody services. • Operational independence of supervisory authorities constrained. • The CNBV has no legal authority to supervise FIs within “mixed groups” on consolidated basis. • Uncertainty about supervisory framework for limited number of FIs supervised by the SAT.
27. Powers of supervisors	LC	• The CNBV does not have power to revoke banking license for AML/CFT failures. • The SAT can only apply financial penalties to issuers of travellers

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) underlying the rating**
		cheques, credit cards and stored-value cards, and providers of safe custody services.
28. Regulation and supervision of DNFBPs	PC	• There are no requirements for competent authorities to prevent associates of criminals from holding (or being the beneficial owner of) a significant or controlling interest, or holding a management function, or being an operator of a casino. • The powers of the supervisors are limited to the review of those transactions that have been conducted within five-years period prior to the on-site visit. • There are no specific measures to prevent criminals or their associates from being professionally accredited or holding a significant or controlling interest in DNFBPs (except for casinos and public brokers). • Sanctions available for supervisors to deal with failure to comply with AML/CFT requirements do not appear to be proportionate and dissuasive. • There are no provisions that supervision should be performed on a risk-sensitive basis.
29. Financial intelligence units	C	The Recommendation is fully observed.
30. Responsibilities of law enforcement and investigative authorities	LC	• The coordination mechanisms between the authorities with power to investigate and prosecute ML should be improved.
31. Powers of law enforcement and investigative authorities	LC	• The main shortcomings relate to special investigation techniques, particularly controlled deliveries. The actual use and application of these techniques seems to be limited to offenses committed by organised crime groups and there is no legal basis governing the implementation of controlled deliveries.
32. Cash couriers	PC	• It is not an offense to make a false declaration. • There is no clear procedure by the customs to deal with cross-border transportation of money related to TF. • The customs do not have the power to request information about the origin and the intended use of cash and BNIs.
33. Statistics	PC	• Mexico does not ensure consistency of statistics between institutions. ML investigations, prosecutions, convicted persons, and sanctions are available at a federal level, but not at a state level. • The country does not collect information on amounts or property confiscated or forfeited at subnational level and in relation to main predicate offenses. • The country does not have a case-management system that enables to process requests and monitor them regularly.
34. Guidance and feedback	LC	• The CNSF, the CONSAR, and the SAT provide little direct guidance on general AML/CFT issues.
35. Sanctions	LC	• Maximum financial penalties are not proportionate and dissuasive for larger institutions.
36. International instruments	LC	• The deficiencies identified in R.5 and 31 have a negative impact (criminal liability for legal persons is not enshrined in the CPF and no provision is made for controlled deliveries).
37. Mutual legal assistance	PC	• There is no case management system for the implementation and follow-up of MLA requests or clear criteria for the prioritization of MLA requests.

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) underlying the rating**
38. Mutual legal assistance: freezing and confiscation	PC	• The deficiencies identified in R.37 have a negative impact on this recommendation. • National provisions do not establish any deadline by which requests to identify, freeze, seize, and confiscate assets must be implemented.
39. Extradition	LC	• There is no established case management system or clear protocols for the prioritization of extradition cases.
40. Other forms of international cooperation	LC	• There are no statutory provisions governing the implementation of controlled deliveries and joint investigation teams at the national level. • No information is exchanged where it forms part of ongoing proceedings or an ongoing investigation, independently of whether or not it might impede such proceedings or investigation.

TABLE OF ACRONYMS

AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
BNI	Bearer Negotiated Instrument
BO	Beneficial Ownership
BPL	Blocked Persons' List
CANDESTI	Comité Especializado de Alto Nivel en Materia de Desarme, Terrorismo y Seguridad Internacionales (Specialised High Committee on Disarmament, Anti-Terrorism and International Security)
CBP	U.S. Customs and Border Protection
CCC	Communication and Control Committee
CCF	Código Civil Federal (Federal Civil Code)
CDD	Customer Due Diligence
CFF	Código Fiscal de la Federación
CJF	Consejo de la Judicatura Federal
CMAA	Customs Mutual Assistance Agreement
CNBV	Comisión Nacional Bancaria y de Valores
CNPP	Código Nacional de Procedimientos Penales (National Criminal Procedural Code)
CNSF	Comisión Nacional de Seguros y Fianzas
CONSAR	Comisión Nacional del Sistema de Ahorro para el Retiro
CPF	Código Penal Federal
CTR	Cash Transaction Report
DAJI	Dirección de Asistencia Jurídica Internacional (Directorate of International Legal Assistance)
DEA	U.S. Drug Enforcement Agency
DGPI	Dirección General de Procedimientos Internacionales
DNFBP	Designated Non-Financial Businesses and Professions
DPMS	Dealers in Precious Metals and Stones
FADC	Fiscalía Especializada en materia de Delitos relacionados con Hechos de Corrupción (Specialised Prosecution Office on Corruption)
FI	Financial Intelligence
FIU	Financial Intelligence Unit (Unidad de Inteligencia Financiera)
GDP	Gross Domestic Product

ICE	U.S. Immigration and Customs Enforcement
INE	Instituto Nacional Electoral (National Electoral Institute)
INEGI	Instituto Nacional de Estadística y Geografía
LEA	Law Enforcement Agency
LEI	Law on International Extradition
LFAEBSP	Ley Federal para la Administración y Enajenación de Bienes del Sector Público (Federal Law for the Administration and Sale of Assets of the Public Sector)
LFCDO	Ley Federal contra la Delincuencia Organizada (Federal Law Against Organised Crime)
LFED	Ley Federal de Extinción de Dominio (Federal Law on Asset Forfeiture)
LFPIORPI	Ley Federal para la Prevención e Identificación de Operaciones con Recursos de Procedencia Ilícita (Federal Law on the Prevention and Identification of Transactions with Illicit Proceeds)
LGTAIP	Ley General de Transparencia y Acceso a la Información Pública (General Law on Transparency and Access to Public Information)
LPV	Related Persons List
ML	Money Laundering
MLA	Mutual Legal Assistance
MOU	Memorandum of Understanding
MSB	Money Services Business
MVTS	Money-Value Transfer Services
NPO	Non-Profit Organisation
NRA	National Risk Assessment
OCG	Organised Criminal Group
OECD	Organisation for Economic Co-operation and Development
OFAC	U.S. Office of Foreign Assets Control
OFSP	Other Financial Service Provider
OMM	Ocean Maritime Management Company
PEP	Politically Exposed Persons
PF	Proliferation Financing
PGR	Procuraduría General de la República
POC	Proceeds of Crime
RCGLFPIORPI	Reglas de Carácter General de la Ley Federal para la Prevención e Identificación de Operaciones con Recursos de Procedencia Ilícita (General Rules of the Federal Law for the Prevention and Identification of Transactions with Illicit Proceeds)

RFA	Retirement Fund Administrators
RFC	Registro Federal de Contribuyentes
RISHCP	Reglamento Interior de la Secretaría de Hacienda y Crédito Público (Internal Regulation of the Ministry of Finance and Public Credit)
RLFPIORPI	Reglamento de la Ley Federal para la Prevención e Identificación de Operaciones con Recursos de Procedencia Ilícita (Regulations of the Federal Law for the Prevention and Identification of Transactions with Illicit Proceeds)
RLPF	Reglamento de la Ley de la Policía Federal (Federal Police Law Regulations)
RPC	Registro Público de Comercio
RPPC	Registro Público de la Propiedad y del Comercio (Public Registry of Property and Cadastre)
SAE	Servicio de Administración y Enajenación de Bienes
SAT	Servicio de Administración Tributaria
SE	Secretaría de Economía (Ministry of Economy)
SEDENA	Secretaría de la Defensa Nacional
SEGOB	Secretaría de Gobernación (Ministry of the Interior)
SEIDO	Subprocuraduría Especializada en Investigación de Delincuencia Organizada (Deputy Attorney General's Office Specialised in the Investigation of Organised Crime)
SEMAR	Secretaría de Marina
SHCP	Secretaría de Hacienda y Crédito Público
SICADED	Currency Declaration Processing System
SIGER	Sistema Integral de Gestión Registral
SIINCO	Taxpayer Integral System
SOCAP	Cooperative Savings and Loans Companies
SOFIPO and SOFINCO	Popular Credit and Saving Entities
SOFOME	Multiple Purpose Finance Companies (regulated entities (ER)/non-regulated entities (ENR))
SPEI	Electronic Interbank Payment System
SRE	Secretaría de Relaciones Exteriores (Ministry of Foreign Affairs)
STR	Suspicious Transaction Report
TCA	Technical Compliance Annex
TF	Terrorist Financing
TFS	Targeted Financial Sanctions
UEAF	Unidad Especializada en Análisis Financiero (Specialised Unit for Financial

	Analysis)
UEIORPIFAM	Unidad Especializada en Investigación de Operaciones con Recursos de Procedencia Ilícita, Falsificación y Alteración de Moneda (Specialised Unit for the Investigation of Operations Involving Resources of Unlawful Origin and Counterfeiting)
UEITA	Unidad Especializada en Investigación de Terrorismo, Acopio y Tráfico de Armas (Specialised Unit for the Investigation of Terrorism and the Stockpiling and Trafficking of Arms)
UNODC	United Nations Office on Drugs and Crime
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution
UTR	Unusual Transaction Report
VA	Vulnerable Activities

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January 2018

Anti-money laundering and counter-terrorist financing measures - Mexico

Fourth Round Mutual Evaluation Report

In this report: a summary of the anti-money laundering (AML) / counter-terrorist financing (CTF) measures in place in Mexico as at the time of the on-site visit on 28 February to 16 March 2017.

The report analyses the level of effectiveness of Mexico's AML/CTF system, the level of compliance with the FATF 40 Recommendations and provides recommendations on how their AML/CFT system could be strengthened.